U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27573234

Date: AUG. 15, 2023

Appeal of Philadelphia, Pennsylvania Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she acquired U.S. citizenship at birth from her father under section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g) as his out-of-wedlock child.

The Director of the Philadelphia, Pennsylvania Field Office denied the Form N-600, concluding that the Applicant did not establish that her father agreed in writing to support her financially until she turned 18 years old, as required in section 309(a)(3) of the Act applicable to children born out of wedlock to U.S. citizen fathers. The matter is now before us on appeal.

On appeal, the Applicant submits additional evidence and renews her citizenship claim.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

The Applicant was born in the Dominican Republic in [redacted] 1997 to a U.S. citizen father and a noncitizen mother, who were not married to each other.[1] The applicable law for transmitting U.S. citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth. *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted).

Because the Applicant was born in 1997, current section 301(g) of the Act, in effect since November 14, 1986, governs her citizenship claim. Section 301(g) of the Act provides in relevant part that a person born abroad to one noncitizen and one U.S. citizen parent will be a national and citizen of the United States at birth if the U.S. citizen parent "prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years."

[1] The Applicant's father was married at the time to a woman who is not the Applicant's mother.

A child, who like the Applicant was born out of wedlock to a U.S. citizen father may acquire citizenship under section 301(g) of the Act only if certain additional requirements set forth in section 309(a) of the Act, 8 U.S.C. § 1409(a), are also met; specifically, if:

> (1) a blood relationship between the person and the father is established by clear and convincing evidence,
>
> (2) the father had the nationality of the United States at the time of the person's birth,
>
> (3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and
>
> (4) while the person is under the age of 18 years-
>
> (A) the person is legitimated under the law of the person's residence or domicile,
>
> (B) the father acknowledges paternity of the person in writing under oath, or
>
> (C) the paternity of the person is established by adjudication of a competent court.

Because the Applicant was born abroad, she is presumed to be a noncitizen and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). Under the preponderance of the evidence standard, the Applicant must show that her citizenship claim is "probably true," or "more likely than not." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The only disputed issue on appeal is whether the Applicant has demonstrated that her U.S. citizen father agreed in writing to provide financial support for her until she reached the age of 18 years, as required under section 309(a)(3) of the Act.

In support of her Form N-600, the Applicant submitted her timely registered foreign birth certificate, an affidavit attesting to her father's physical presence in the United States, and evidence related to the father's 1995 naturalization and his foreign travel. The record below also includes the Applicant's immigrant visa with which she was admitted to the United States as a lawful permanent resident child of a U.S. citizen (IR-2) at the age of 20 years, and the affidavit of support her father submitted in 2018 in connection with that immigrant visa.

In denying the Form N-600, the Director determined that this evidence was not sufficient to show that the Applicant's father executed a written financial support agreement prior to her 18th birthday in 2015. The Director acknowledged the Applicant's assertion that a father who declares paternity of a child accepts a legal obligation to support that child under Dominican law, but noted that the Applicant did not submit any documents to show that this was the case, or that her father declared paternity at the time of her birth or thereafter, but before she turned 18 years of age.

To overcome these deficiencies, the Applicant now submits excerpts from the Dominican Republic Code for the Protection of Children, Law 14-94 (DCPC) (which took effect in January 1995), and Code for the Protection of Children and Adolescents, Law 136-03 (CPCA) (which took effect in August 2004, when the Applicant was six years old). According to article 21 of DCPC, sons and daughters born out of wedlock may be acknowledged individually by their father either when the birth occurs, or by means of a will, or by a public instrument.[2] Similarly, pursuant to articles 63 and 68 of CPCA, as currently in effect, sons and daughters conceived out of wedlock may be recognized by their father individually at the time of birth or after, either by declaring the child before a Civil Registry officer, by will, or by an authentic act, and in all circumstances the father and the mother are obligated to, in part, provide sustenance, protection, education, and supervision for the child. Lastly, article 171 of CPCA defines the term "support" as the care, services, and products aimed at satisfying the basic needs of children or adolescents essential for their sustenance and development: food, housing, clothing, assistance, medical care, medicines, recreation, comprehensive training, and academic education. The Applicant also submits an affidavit from her mother, and an affirmation from her counsel, who is licensed to practice law in the Dominican Republic, explaining the parents' obligation to provide financial support for their children under both DCPC and CPCA.

The Applicant asserts that because her father's name was included in her birth certificate when her birth was registered, her father was legally obligated under Dominican law to provide her with financial support, and he accepted this obligation by sending money to the Dominican Republic where she resided with her mother as a minor.

We have reviewed the entire record and considered the additional evidence on appeal. For the reasons explained below, we conclude that the record remains insufficient to show that the Applicant's father satisfied the written agreement of financial support requirement in section 309(a)(3) of the Act for transmission of U.S. citizenship.

In order for a document to qualify as a written agreement of financial support under section 309(a)(3) of the Act, the document must: (1) be in writing and acknowledged by the father; (2) indicate the father's agreement to provide financial support for the child; and (3) be dated before the child's 18th birthday. *See generally* 12 *USCIS Policy Manual* H.3(C)(1), https://www.uscis.gov/policy-manual (providing examples of acceptable documentation that may qualify as a written agreement of financial support). To determine whether this requirement has been satisfied U.S. Citizenship and Immigration Services may consider documents establishing that the father accepted financial responsibility of the child until the age of 18 years, including a written voluntary acknowledgment of a child in a jurisdiction where there is a legal requirement that the father provide financial support, such as a birth certificate or acknowledgement document submitted and certified by the father. *See generally id.* at n. 29.

Here, the record does not contain such documents. We recognize that under Dominican law a father who acknowledges or declares paternity of an out-of-wedlock child before a Civil Registry officer at the time of birth or thereafter is obligated to provide support for that child. However, the evidence is

[2] *See also Matter of Cabrera*, 21 I&N Dec. 589, 591 (BIA 1996) (holding that a child born in the Dominican Republic out of wedlock after the enactment of DCPC is placed in the same legal position as one born in wedlock once parentage is established according to the legal procedures of the Dominican Republic).

not sufficient to establish that the Applicant's father voluntarily acknowledged paternity at the time of her birth, thus accepting an obligation to support her. Specifically, although the father's name and U.S. passport number are listed in the Applicant's birth certificate,[3] the certificate indicates that her mother alone registered the birth and provided information about the father; there is nothing in the record to suggest that the father was present in the Dominican Republic when the Applicant was born, or that he declared paternity of the Applicant before a Civil Registry officer when the Applicant's mother registered the birth. Nor is there evidence that the father acknowledged paternity of the Applicant thereafter, but before she turned 18 years old by any other means set forth in DCPC and CPCA. We cannot therefore conclude that the inclusion of the father's name on her birth certificate alone is sufficient to establish that he voluntarily accepted financial responsibility for the Applicant until she reached the age of 18 years, absent evidence that he actually appeared before a Civil Registry officer and signed the Applicant's birth certificate or otherwise acknowledged his paternity in writing.

The Applicant's mother does not explain the circumstances of the Applicant's birth in her affidavit. Rather, she states only that the Applicant resided with her in the Dominican Republic since birth, and that she was responsible for the Applicant's wellbeing by making sure she had food, shelter, and clothing. While the mother attests that shortly after the Applicant's birth she and the Applicant's father came to an agreement that he would send money for the Applicant's support and they "never had to involve the courts" because they had a good relationship, such a *verbal* agreement does not meet the *written* financial agreement requirement in section 309(a)(3) of the Act. And while we recognize the mother's claim that the father honored their informal agreement by sending her money every month, absent evidence that the father memorialized in writing that he would support the Applicant until her 18th birthday, the Applicant does not meet the financial support agreement requirement for acquisition of citizenship as her father's out-of-wedlock child.

Based on the above, we conclude that the Applicant has not demonstrated that the inclusion of her father's name in her birth certificate triggered the father's legal obligation under Dominican law to support her until she was 18 years old, or that it was otherwise sufficient to establish that he had "agreed in writing" to provide financial support for her until she reached the age of 18 years. The Applicant also has not demonstrated that her father fulfilled this condition by sending money to her mother pursuant to the parents' verbal agreement.

Consequently, the Applicant has not met her burden of proof to show that the written agreement of financial support requirement in section 309(a)(3) of the Act has been met.

Because the Applicant is ineligible for a Certificate of Citizenship on that basis alone, we need not determine at this time whether she meets the remaining conditions in section 309(a) of the Act, and whether the evidence is sufficient to establish that her father satisfied the prior U.S. physical presence requirements for transmission of citizenship under section 301(g) of the Act. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526

[3] *Acta Inextensa de Nacimiento*, issued by the civil registry office in Santo Domingo in November 2017. The record also contains the Applicant's birth certificate extract (*Extracto de Acta de Nacimiento*) issued in 2018, the extract similarly reflects that the birth was registered by the Applicant's mother. The Applicant provided a copy of her father's U.S. passport referenced in her birth certificate with the Form N-600.

n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.