



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28773903

Date: NOV. 13, 2023

Appeal of Sacramento, California Field Office Decision

Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322

The Applicant's U.S. citizen mother filed the instant Form N-600K seeking a Certificate of Citizenship on the Applicant's behalf under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The Director of the Sacramento, California Field Office denied the Form N-600K, concluding that the Applicant did not qualify for a Certificate of Citizenship under section 322 of the Act because he was not residing outside the United States, as required.

On appeal, the Applicant's mother asserts generally that the Applicant is eligible for a Certificate of Citizenship because he has one naturalized U.S. citizen parent. In support, she submits a copy of the Applicant's U.S. passport, evidence that the Applicant is residing with her in California, and a copy of her naturalization certificate.

The Applicant's mother bears the burden of proof to demonstrate eligibility for the requested benefit 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.

Section 322 of the Act applies to children of U.S. citizens born and residing outside of the United States. It provides, in pertinent part that:

- (a) A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320 [of the Act], [8 U.S.C. § 1432]<sup>1</sup>. . . [and] the [Secretary of Homeland Security] shall issue a certificate of citizenship to such applicant upon proof . . . that the following conditions have been fulfilled:

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<sup>1</sup> Section 320 of the Act provides, in pertinent part, that a child born outside of the United States automatically becomes a citizen of the United States if: (1) at least one parent of the child is a citizen of the United States, whether by birth or naturalization; (2) the child is under the age of eighteen years; and (3) the child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent –

(A) has . . . been 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.

...

...

(3) The child is under the age of eighteen years.

(4) *The child is residing outside of the United States in the legal and physical custody of the [citizen parent]. . . .*

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status. . . .

The regulation at 8 C.F.R. § 341.1 provides, in relevant part, that an application for a Certificate of Citizenship must be submitted on the form designated by U.S. Citizenship and Immigration Services, and in accordance with the instructions on the form.

Form N-600K is used exclusively to apply for issuance of a Certificate of Citizenship under section 322 of the Act. *See* Form N-600K, Instructions for Application for Citizenship and Issuance of Certificate Under Section 322, at 1, <https://www.uscis.gov/n-600k> (stating that the form may be filed by a U.S. citizen parent who regularly resides outside the United States, has legal and physical custody of the child, and is seeking naturalization of the child).

The record reflects that the Applicant was born abroad to noncitizen parents in 2015. In 2016 he was admitted to the United States as a lawful permanent resident. The Applicant has been residing with his parents in California since that time; his mother naturalized as a U.S. citizen in 2022, when he was six years old.

The Applicant's mother does not claim that the Applicant is residing outside of the United States, as required in section 322(a)(4) of the Act, and the evidence she submits on appeal indicates that both she and the Applicant continue to reside in California. Consequently, the Applicant does not meet the requirement of residing outside of the United States in the legal and physical custody of his U.S. citizen parent, and is not eligible for a Certificate of Citizenship under the provisions of section 322 of the Act.

We acknowledge that in July 2022 the Applicant was issued a U.S. passport by the U.S. Department of State, which remains valid. While the passport reflects the U.S. Department of State's determination that the Applicant is a U.S. citizen, it is not sufficient to establish that he is eligible for a Certificate of Citizenship under section 322 of the Act absent evidence that he is residing outside of

the United States in his U.S. citizen mother's legal and physical custody and has fulfilled the remaining conditions in that section of the Act.

The Applicant's mother therefore has not met her burden of proof to demonstrate eligibility for issuance of a Certificate of Citizenship on the Applicant's behalf, and we must dismiss the appeal.

The dismissal is without prejudice to filing a Form N-600, Application for Certificate of Citizenship under section 320 of the Act or any other provisions under which the Applicant may be eligible. *See* Form N-600, Instructions for Application for Certificate of Citizenship, at 1, <https://www.uscis.gov/n-600> (providing in part that the form may be filed by a child (or a parent or guardian on behalf of a minor child) who is claiming U.S. citizenship after birth, and who is residing in the United States in the physical and legal custody of a U.S. citizen parent as a lawful permanent resident while under 18 years of age).

**ORDER:** The appeal is dismissed.