



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

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

In Re: 28334339

Date: NOV. 17, 2023

Appeal of New York, New York Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her U.S. citizen mother under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the New York, New York Field Office denied the Form N-600, Application for Certificate of Citizenship (Form N-600), concluding that the Applicant did not establish eligibility as her actual identity could not be determined. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant submits a new statement asserting that the true spelling of her first name has never changed, a scrivener's error has led to an alternate spelling appearing on some documents, and that it was corrected at her adjustment interview.

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 remand the matter to the Director for the issuance of a new decision.

Applicants born abroad are presumed to be foreign nationals and bear the burden of establishing their claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). The "preponderance of the evidence" standard requires that the Applicant establish that their claim is "probably true," based on the specific facts of their case. *See Matter of Chawathe*, at 376 (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)).

In denying the Form N-600, the Director noted that some of the documents provided by the Applicant had different names that did not match her actual identity and concluded that the Applicant did not establish eligibility as her actual identity could not be determined.

On appeal, the Applicant asserts that her first name was erroneously misspelled in the past, which has led some of her documentation to also show the misspelled first name, but that she has not legally changed her name. She contends that she has attempted to correct the spelling of her first name with U.S. Citizenship and Immigration Services (USCIS) on multiple occasions and was finally able to do so at the time of her adjustment interview.

The record reflects that the Applicant's birth certificate, registered seven days after her birth, indicates that her first name is [REDACTED]. However, the English translation of that birth certificate, drafted in April 2006, contains what appears to be the first instance of the misspelling of the first name as [REDACTED]. As a result, the Applicant's U.S. travel document, issued by the U.S. Department of State in February 2008, reflects the incorrect spelling of her first name as [REDACTED]. It appears that because this documentation was issued with the incorrect spelling of the Applicant's first name, all of her subsequent U.S. government-issued documentation also lists the incorrect spelling of [REDACTED]. Therefore, on her Form I-485, Application to Register Permanent Residence or Adjust Status, submitted in June 2010, the Applicant listed her first name in the same incorrect spelling of [REDACTED]. Nevertheless, at the time of her interview, she explained the misspelling to the interviewing officer and presented her original birth certificate with a new English translation showing the correct spelling of her first name as [REDACTED]. The interviewing officer then corrected the spelling of her first name by handwriting it on the Form I-485 and updating USCIS records, thus ensuring that the Applicant's lawful permanent resident (LPR) card was issued with the correct spelling of her first name as [REDACTED].

Here, it appears that the misspelling of the Applicant's first name on a document in 2006 impacted the spelling of her first name on subsequent government-issued documentation. This issue was remedied at her adjustment of status interview when the interviewing officer corrected the spelling of her first name throughout USCIS records and her LPR card was issued in the correct spelling of [REDACTED]. Based on the foregoing, the Applicant has established, by a preponderance of the evidence, her actual identity and clarified the issue of the misspelling of her first name in the record. Consequently, we will remand this matter to the Director to assess the Applicant's citizenship claim anew.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.