



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

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

In Re: 28446443

Date: OCT. 10, 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 he acquired U.S. citizenship from a U.S. citizen parent 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 initially approved the Form N-600 in 2020. However, because the Applicant did not appear for at least four scheduled, required in-person processing appointments, the Director reopened the matter sua sponte and advised the Applicant that he must appear for a scheduled appointment to take the oath of allegiance. The Applicant responded to the notice of reopening, claiming that he was unable to return to the United States due to the COVID-19 pandemic. The Director denied the Form N-600 based on the Applicant's failure to appear for a scheduled appointment to take the oath of allegiance. 8 C.F.R. § 320.5(a). The matter is now before us on appeal. 8 C.F.R. § 103.3.

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.

The record reflects that the Applicant was born in Hong Kong in 1984 to two, unmarried foreign national parents, who subsequently married each other in 1989. The Applicant was lawfully admitted to the United States in 1991 as a lawful permanent resident, and both of his parents became naturalized U.S. citizens in 2002 when he was still under the age of 18. The Director approved the Form N-600 under section 320 of the Act, which provides, in pertinent part, that a child born outside of the United States automatically becomes a citizen of the United States when a least one parent of the child is a U.S. citizen through birth or naturalization, and the child is under the age of 18 years and residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

In order to obtain a Certificate of Citizenship, an applicant must not only demonstrate statutory eligibility to derive citizenship through a U.S. citizen parent but also generally must take an oath of allegiance to the United States, unless waived. 8 C.F.R. § 320.5(a). If the Form N-600 is approved, U.S. Citizenship and Immigration Services (USCIS) will prepare a Certificate of Citizenship

and the applicant, with certain exceptions described below, must take and subscribe to the oath of renunciation and allegiance before USCIS within the United States. 8 C.F.R. § 341.5(b); *see also* 8 C.F.R. § 320.5(a) (stating that, if the Form N-600 is approved, after the applicant takes the oath of allegiance, USCIS will issue a Certificate of Citizenship).

Although the Director initially approved the Form N-600, the application was reopened and denied after the Applicant failed to appear for four scheduled appearances.

On appeal, the Applicant contends that he is not required to take an oath of allegiance and that the Director erroneously scheduled him for a public oath ceremony under statutory and regulatory conditions that apply solely to naturalization applicants. However, although he claims that he is not required to take an oath of allegiance because he is not a naturalization applicant, the applicable regulations here require applicants for a Certificate of Citizenship to take and subscribe to the oath of renunciation and allegiance before USCIS within the United States unless they are unable to understand the meaning of the oath by (1) reason of mental incapacity or (2) young age. 8 C.F.R. § 341.5(b); *see also* 8 C.F.R. § 320.5(a). Here, the Applicant does not claim that either exception applies in his case and, therefore, he is required to take an oath of allegiance before USCIS will issue the Certificate of Citizenship. 8 C.F.R. § 320.5(a). The regulation at 8 C.F.R. § 320.5(a) is binding on USCIS employees in their administration of the Act. *See United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (as long as regulations remain in force, they are binding on government officials). Additionally, with respect to scheduled appearances for in-person appointments for processing, the regulation at 8 C.F.R. § 103.2(b)(13)(ii) provides that if an applicant does not appear for a scheduled biometrics capture, an interview, or other in-person process the benefit request can be denied.

Here, the Applicant has not appeared to take the required oath of allegiance and pick up his Certificate of Citizenship at any of his scheduled appearances, and the Director properly denied the application. For this reason, the application remains denied.¹

ORDER: The appeal is dismissed.

¹ This dismissal is without prejudice to filing a motion to reopen this Form N-600 should the Applicant become available to attend an oath of allegiance ceremony. *See* 8 C.F.R. § 341.5(e) (providing that after an application for a Certificate of Citizenship has been denied and the time for appeal has expired, USCIS will reject a subsequent application submitted by the same individual and the applicant will be instructed to submit a motion to reopen or reconsider in accordance with the regulations at 8 C.F.R. § 103.5).