



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

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

In Re: 28468745

Date: OCT. 12, 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 derived U.S. citizenship from his mother under former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432.

The Director of the New York, New York Field Office denied the application, concluding that the Applicant did not provide requested evidence and therefore he had not shown that he is eligible for a Certificate of Citizenship under section 320 of the Act, 8 U.S.C. § 1341. 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

The record reflects that the Applicant was born in Barbados in 1958 to unmarried, foreign national parents. The Applicant was admitted to the United States as a lawful permanent resident in December 1966, and a Certificate of Naturalization shows that the Applicant's mother subsequently naturalized in June 1968, when the Applicant was 9 years old. As there is no evidence that the Applicant's father is a U.S. citizen, the Applicant seeks a Certificate of Citizenship solely through his naturalized U.S. citizen mother.

The Director's Form N-600 denial states that the Applicant has not shown that he is eligible for a Certificate of Citizenship under section 320 of the Act and cites to section 320 of the Act statutory conditions. The applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." The Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106- 395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended sections 320 and 322 of the Act and repealed section 321 of the Act, but do not apply to individuals, such as the Applicant, who were over the age of 18 years as of February 27, 2001. Moreover, the Form N-600 does not reflect that the Applicant sought a Certificate of Citizenship under the provisions of section 320 of the Act.

Here, the Applicant is seeking a Certificate of Citizenship under former section 321 of the Act conditions, in accordance with language in the New York District Director's August 2015 denial of the Applicant's Form N-400, Application for Naturalization.¹

Generally, former section 321 of the Act conditions apply to an individual born outside of the United States claiming automatic U.S. citizenship after birth and who can meet the last of certain conditions between December 24, 1952 and February 26, 2001. For individuals born to foreign national parents, only one of whom naturalized before the individual turned 18, the individual may automatically become a U.S. citizen if, among other requirements, one of three conditions are met: (1) the non-naturalized parent is deceased; (2) the U.S. citizen parent has custody over the individual after a legal separation or divorce; or (3) the individual was born to unmarried parents and is claiming to be a U.S. citizen through a naturalized mother, and the father has not legitimated the individual.

Because the Director did not consider whether the Applicant derived U.S. citizenship through his mother under conditions at former section 321 of the Act, we are returning the matter to the Director to determine whether or not the Applicant has satisfied all of the conditions at former section 321 of the Act.

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

¹ In the 2015 Form N-400 denial, the Director stated that the Applicant did not qualify for naturalization because he appeared to be a U.S. citizen, cited to the statutory conditions at former section 321 of the Act, and suggested that the Applicant submit a Form N-600 if he wanted to obtain proof of his U.S. citizenship.