



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

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

In Re: 28468599

Date: OCT. 23, 2023

Appeal of Dallas, Texas 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 one or both of his naturalized U.S. citizen parents. but did not specify whether he sought to demonstrate his eligibility for a Certificate of Citizenship under conditions at section 320 of the Act, 8 U.S.C. § 1431, or at former section 321 of the Act, 8 U.S.C. § 1432.

The Director of the Dallas, Texas Field Office denied the application, concluding that the Applicant did not show that his father became a U.S. citizen prior to February 27, 2001, and therefore Applicant the 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 Poland in [REDACTED] 1982 to married, foreign national parents. The Applicant became a lawful permanent resident of the United States in November 1990, and a Certificate of Naturalization shows that his mother subsequently naturalized in April 1999, when the Applicant was 17 years old. Another Certificate of Naturalization shows that the Applicant's father became a naturalized U.S. citizen in March 2001, when the Applicant was over the age of 18 years. Consequently, 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 the corresponding 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. Consequently, the Applicant is statutorily ineligible for a Certificate of Citizenship under section 320 of the Act.

In the alternate, if the Applicant is seeking a Certificate of Citizenship under former section 321 of the Act conditions, they 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.

Former section 321 of the Act conditions provide, in pertinent part, that:

(a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(1) The naturalization of both parents; or

(2) The naturalization of the surviving parent if one of the parents is deceased; or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if-

(4) Such naturalization takes place while such child is under the age of 18 years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of 18 years.

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 to derive U.S. citizenship through one or both of his parents.

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