



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

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

In Re: 20916732

Date: APR. 26, 2022

Appeal of Yakima, Washington Field Office Decision

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

The Applicant seeks a Certificate of Citizenship to reflect that he derived U.S. citizenship through his father under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433. The Director of the Yakima, Washington Field Office denied the Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322 (Form N-600K), concluding the Applicant provided insufficient evidence to establish that he was residing outside the United States in the legal and physical custody of his U.S. citizen father, as required under section 322 of the Act. On appeal, the Applicant submits additional evidence, including proof of his health coverage in the United States, a copy of his social security card, and a copy of his immigrant visa. The Administrative Appeals Office reviews 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.

**I. LAW**

Section 322 of the Act (as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000)), applies to children who were born and reside outside of the United States, and requires in pertinent part that, children fulfill all conditions, including the oath of allegiance, while “under the age of eighteen years.” Sections 322(a)(3), (b) of the Act.

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*, 24 I&N Dec. 467, 468 (BIA 2008). The “preponderance of the evidence” standard requires the record to demonstrate that the Applicant’s claim is “probably true,” based on the specific facts of the case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

**II. ANALYSIS**

The record reflects that the Applicant was born in Jordan in 2003, to married parents. His mother is a citizen of Jordan and resides in Jordan, and the Applicant’s father is a U.S. citizen through his naturalization in January 2017. The Applicant claims U.S. citizenship under section 322 of the Act through his father.

As stated above, USCIS will issue a Certificate of Citizenship to a child who satisfies the relevant conditions prior to reaching 18 years of age. Section 322(a)(3) of the Act.

In April 2021, the Director determined that the Applicant did not submit sufficient evidence to demonstrate, by a preponderance of the evidence, that he resides outside of the United States in the legal and physical custody of his U.S. citizen father. Instead, the Director highlighted that the record indicated that the Applicant's U.S. citizen father resided in the United States. In May 2021, approximately one month prior to the Applicant's 18th birthday, he filed the instant appeal. The appeal was transferred to our office in December 2021.

Unfortunately, the Applicant was over the age limit set forth in section 322(a)(3) of the Act upon our receipt of his appeal, as he turned 18 years of age in  2021. The Applicant is statutorily ineligible for issuance of a Certificate of Citizenship for this reason. Accordingly, we do not reach the issue of whether he was residing outside the United States in the legal and physical custody of his U.S. citizen father, and whether he satisfies the remaining conditions set forth in section 322 of the Act.<sup>1</sup>

**ORDER:** The appeal is dismissed.

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<sup>1</sup> This decision is without prejudice to the Applicant filing an N-600, Application for Certificate of Citizenship, if he desires to claim eligibility for a Certificate of Citizenship under section 320 of the Act ("A child born outside the United States *automatically* becomes a citizen of the United States when all of the following conditions have been fulfilled: (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 18 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.") (emphasis added).