U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21823755

Date: MAY 24, 2022

Appeal of Columbus, Ohio Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he derived U.S. citizenship from his mother under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431. Section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), and in effect since February 27, 2001, provides that a child who is under the age of 18 years and has at least one U.S. citizen parent will automatically derive citizenship, if the child is residing in the United States in that parent's legal and physical custody pursuant to a lawful admission for permanent residence.

The Director of the Columbus, Ohio Field Office denied the Form N-600, Application for a Certificate of Citizenship, concluding that the record did not establish that the Applicant had been admitted to the United States as a lawful permanent resident (LPR) while he was under the age of 18, as required by section 320 of the Act.

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.

I. LAW

As stated, the Applicant seeks a Certificate of Citizenship on the basis that he derived U.S. citizenship through his U.S. citizen mother. The record reflects that the Applicant was born abroad in [redacted] 2005 to his noncitizen mother. The Applicant and his mother were both admitted to the United States as refugees in July 2013 when the Applicant was eight years old. His mother later became a naturalized U.S. citizen in September 2020 when the Applicant was 15 years old.

In adjudicating the Applicant's derivative citizenship claim, we apply "the law in effect at the time the critical events giving rise to eligibility occurred." *Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005). As the Applicant's birth in 2005 was after the enactment of the CCA, we consider his citizenship claim under current section 320 of the Act, as amended in February 2001 and currently in effect. Section 320 of the Act, provides, in pertinent part, that:

(a) A child born outside of 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 eighteen years.

(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.

See also 8 C.F.R. § 320.2. The supporting evidence for an application for a Certificate of Citizenship must include a copy of the Permanent Resident Card/Alien Registration Receipt Card or other evidence of lawful permanent resident status (e.g. I-551 stamp in a valid foreign passport or USCIS-issued travel document). 8 C.F.R. § 320.3(b)(vii); *see also Instructions for Form N-600*, https://www.uscis.gov/n-600 (providing that an applicant claiming U.S. citizenship after birth through a U.S. citizen parent must submit a copy of Permanent Resident Card or other evidence of permanent resident status).

Because the Applicant was born abroad, he is presumed to be a noncitizen and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios,* 24 I&N Dec. 467, 468 (BIA 2008). Under the preponderance of the evidence standard, the Applicant must demonstrate that his claim is "probably true," or "more likely than not" true, based on the specific facts of the case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The record establishes that the Applicant, a citizen of Liberia, was admitted to the United States as a refugee in July when he was eight years old. [1] His mother, also a native of Liberia, later naturalized as a U.S. citizen in September 2020 when the Applicant was 15 years old.

The Director denied the Form N-600 because the Applicant had never been admitted to the United States in lawful permanent residence status as required by section 320 of the Act. The Director noted that although the record indicated that the Applicant had previously submitted a Form I-485, Application to Adjust Status, requesting adjustment of status under section 209 of the Act, 8 U.S.C. § 1159, that application had been denied due to abandonment after the Applicant failed to respond to multiple requests for evidence (RFE). On appeal, the Applicant, who the record indicates is currently under 18 years of age, explains that his mother did not know how to update their address and he therefore did not receive the Director's RFE for his Form I-485.

As noted above, because the Applicant is claiming derivative citizenship after birth through his naturalized U.S. citizen mother, he must show, among other requirements, that he is residing in his U.S. citizen parent's physical and legal custody "pursuant to a lawful admission for permanent

[1] The Applicant's Form N-600 lists his country of birth as Liberia. His mother's Form N-400, Application for Naturalization, part of the administrative record, lists the Applicant's country of birth as Ghana.

residence." Section 320(a)(3) of the Act; 8 C.F.R. § 320.2(a)(3). For purposes of derivative citizenship, the term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Section 101(a)(20) of the Act, 8 U.S.C. § 1101(a)(20). Accordingly, a noncitizen must have been admitted to the United States as an LPR to derive U.S. citizenship from a U.S. citizen parent under section 320 of the Act.

Here, the Applicant concedes and our review of the record shows that he was never accorded LPR status.[2] He therefore has not established that he is residing in the United States pursuant to a lawful admission for permanent residence as required for derivative citizenship under section 320(a)(3) of the Act, and consequently, is ineligible for a Certificate of Citizenship.

ORDER: The appeal is dismissed.

[2] The dismissal is without prejudice to filing a motion to reopen these proceedings if the Applicant files a new Form I-485 and is granted LPR status in the United States before he turns 18 years of age. *See* 8 C.F.R. § 320.5(c) (providing that an applicant may file a motion to reopen or reconsider their Form N-600 that has been denied and for which the appeal period expired, as USCIS will reject any subsequent Form N-600 by the same applicant); *see also* 8 C.F.R. § 341.5(e) (same).