



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

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

In Re: 27571970

Date: AUG. 2, 2023

Appeal of Philadelphia, Pennsylvania Field Office Decision

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

The Applicant's U.S. citizen father filed the instant Form N-600K seeking a Certificate of Citizenship on the Applicant's behalf under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433. The regulations at 8 C.F.R. § 341.1 provide in relevant part that an application for a Certificate of Citizenship must be submitted on the form designated by U.S. Citizenship and Immigration Services, and in accordance with the instructions on the form. An applicant must also establish eligibility for the requested benefit. 8 C.F.R. § 103.2(b).

The Director of the Philadelphia, Pennsylvania Field Office denied the application, explaining that Form N-600K is used to apply for a Certificate of Citizenship on behalf of a child residing outside of the United States who did not automatically derive citizenship from their U.S. citizen parent or parents under section 320 of the Act,<sup>1</sup> 8 U.S.C. § 1431. The Director concluded that because the Applicant was residing in the United States with his U.S. citizen parents, he was ineligible for a Certificate of Citizenship under section 322 of the Act and his Form N-600K was therefore improperly filed. The matter is now before us on appeal.

On appeal, the Applicant's father does not dispute that the Applicant is residing with him in the United States and does not qualify for issuance of a Certificate of Citizenship under section 322 of the Act. He resubmits evidence concerning the Applicant's eligibility for a Certificate of Citizenship under section 320 of the Act, and states that he mistakenly filed the instant Form N-600K, instead of filing Form N-600, Application for Certificate of Citizenship.

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.

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<sup>1</sup> Section 320 of the Act provides, in pertinent part, that a child born outside of the United States automatically becomes a citizen of the United States if: (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; 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.

As the Director explained in the denial, the Form N-600K is used exclusively to apply for a child's naturalization and issuance of a Certificate of Citizenship under section 322 of the Act.<sup>2</sup> The Applicant's father concedes that the Applicant is not eligible for the benefit he requested by filing the instant Form N-600K on his behalf, because he is not residing outside of the United States. Rather, the Applicant's father indicates that the Applicant may qualify for issuance of a Certificate of Citizenship because he automatically derived U.S. citizenship from him under section 320 of the Act.

We acknowledge these statements. However, a request for a Certificate of Citizenship under section 320 of the Act must be filed on a Form N-600.<sup>3</sup> The Form N-600K the Applicant's father has filed does not allow us to consider a request for a Certificate of Citizenship under any citizenship provisions other than section 322 of the Act.

As the Applicant's father concedes that the Applicant is not eligible for issuance of a Certificate of Citizenship under that section of the Act, we must dismiss his appeal. The dismissal is without prejudice to a filing of a Form N-600 with appropriate fee and evidence to support the claim of the Applicant's derivative citizenship under section 320 of the Act.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> See Form N-600K, Instructions for Application for Citizenship and Issuance of Certificate Under Section 322, at 1, <https://www.uscis.gov/n-600k> (stating that the form may be filed by a U.S. citizen parent who regularly resides outside the United States, has legal and physical custody of the child, and is seeking naturalization of the child).

<sup>3</sup> See Form N-600, Instructions for Application for Certificate of Citizenship, at 1, <https://www.uscis.gov/n-600> (providing in part that the form may be filed by a child (or a parent or guardian on behalf of a minor child) who is claiming U.S. citizenship after birth, and who is residing in the United States in the physical and legal custody of a U.S. citizen parent as a lawful permanent resident while under 18 years of age).