



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

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

In Re: 27371005

Date: AUG. 2, 2023

Appeal of New York, New York Field Office Decision

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

The Applicant's father seeks a Certificate of Citizenship on behalf of the Applicant to reflect that the Applicant derived U.S. citizenship through a naturalized U.S. parent under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The Director of the New York, New York Field Office denied the application, concluding that the Applicant had not satisfied the residing abroad in the legal and physical custody of the U.S. citizen parent condition at section 322(a)(4) of the Act, and the U.S. physical presence requirements for a U.S. citizen parent or U.S. citizen grandparent set forth in section 322(a)(2)(B) of the Act. 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 dismiss the appeal.

Section 322(a) of the Act, 8 U.S.C. § 1433(a), applies to children born and residing outside of the United States, and provides, in pertinent part, that:

A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent--

(A) has . . . been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has . . . a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the [citizen parent]

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

The record reflects that the Applicant reached his eighteenth birthday in 2022. Accordingly, the Applicant is statutorily ineligible for a certificate of citizenship because he does not meet the age limitation set forth in section 322(a)(3) of the Act. Because he is no longer under the age of eighteen, we do not reach the issues of whether or not the Applicant is residing outside of the United States in the legal and physical custody of his U.S. citizen parent, or whether he showed he has a U.S. citizen parent or U.S. citizen grandparent who met the physical presence requirements set forth in section 322(a)(2)(B) of the Act. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

On appeal, the Applicant’s father asks that the appeal be approved because the application process has been subjected to an unreasonable delay. However, a person may obtain citizenship only in strict compliance with the statutory requirements imposed by Congress, and the AAO lacks the authority to use, for example, equitable powers to issue a certificate of citizenship nunc pro tunc when an applicant fails to meet the relevant statutory provisions. *See INS v. Pangilinan*, 486 U.S. 875, 883-84 (1988). Moreover, “it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect,” and that any doubts concerning citizenship are to be resolved in favor of the United States. *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967). Consequently, the Applicant has not shown he is statutorily eligible for a Certificate of Citizenship under section 322 of the Act.

ORDER: The appeal is dismissed.