



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

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

In Re: 23571248

Date: FEB. 7, 2023

Appeal of Helena, Montana Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant, who was born abroad in 1977 seeks a Certificate of Citizenship to reflect that he derived citizenship from his naturalized U.S. citizen mother under former section 321 of the Act, 8 U.S.C. § 1432.<sup>1</sup> Former section 321(a)(3) of the Act provides in relevant part that an individual born abroad who is under the age of 18 years and residing in the United States as a lawful permanent resident will derive citizenship upon the naturalization of the mother if they were born out of wedlock and their paternity has not been established by legitimation.

The Director of the Helena, Montana Field Office denied the application, concluding that the Applicant did not establish, as required that he was born out of wedlock because the evidence in the record indicated that his parents were married at the time of his birth. The matter is now before us on appeal.

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.

On appeal, the Applicant resubmits previously provided evidence (which includes a copy of the Laotian Civil and Commercial Code as in effect at the time of his birth, and a certification from the civil authorities in the village where his parents previously resided that no record of their marriage was found), and reiterates that his parents were never legally married, nor was his paternity established by legitimation under the laws of his residence in Laos or the United States. The Applicant also resubmits a copy of his U.S. passport, which the U.S. Department of State issued to him in January 2021, while the instant Form N-600 was pending.

Because the Director did not address this evidence in the adverse decision and the record reflects that the Applicant has been issued a U.S. passport which remains valid at this time,<sup>2</sup> we will return the matter for the Director to consider the Applicant's derivative citizenship claim anew.

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<sup>1</sup> Repealed by Sec. 103(a), title I, Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (2000).

<sup>2</sup> A valid U.S. passport issued to an individual as a citizen of the United States constitutes conclusive proof of that person's citizenship unless the passport is void on its face. *Matter of Villanueva*, 19 I&N Dec. 101, 103 (BIA 1984).

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