



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

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

In Re: 26667070

Date: MAY 3, 2023

Appeal of Greer, South Carolina Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad in 2017 to a U.S. citizen father and a noncitizen mother, seeks a Certificate of Citizenship to reflect that she derived citizenship from her father under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431. Section 320 of the Act provides for derivative citizenship of foreign-born children who have at least one U.S. citizen parent, are under the age of 18 years, and are residing in their U.S. citizen parent's legal and physical custody in the United States as lawful permanent residents. *See* sections 320(a)(1)-(3) of the Act.

The Director of the Greer, South Carolina Field Office considered the Applicant's citizenship claim under section 301(g) of the Act, 8 U.S.C. § 1401(g),<sup>1</sup> and denied the Form N-600 concluding that the record did not establish her U.S. citizen father had the requisite prior physical presence in the United States to transmit his citizenship to the Applicant at birth under that section of the Act. 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's father who was born in the United States does not contest that he does not meet the U.S. physical presence requirements for transmission of citizenship under section 301(g) of the Act.<sup>2</sup> Rather, he asserts that the Applicant has satisfied the conditions for derivative citizenship under section 320 of the Act, because she is currently under the age of 18 years, was admitted to the United States as a lawful permanent resident in August 2021, and has been residing in his legal and physical custody in the United States since that time.

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<sup>1</sup> Section 301(g) of the Act provides in pertinent part that a child born abroad to one U.S. citizen and one noncitizen parent will be a national and citizen of the United States at birth if the child's U.S. citizen parent "prior to the birth of such [child], was 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."

<sup>2</sup> The Applicant's father represented on the Form N-600 that he began residing in the United States when the Applicant was three years old.

The previously submitted evidence in support of the father's statements includes birth and marriage certificates, a copy the Applicant's Form I-551, lawful permanent resident card, and her father's U.S. employment and residential records. We also note that the record contains a copy of the Applicant's U.S. passport, which the U.S. Department of State issued to her in November 2021, and which remains valid.<sup>3</sup>

In view of the above, we will return the matter for the Director to consider the Applicant's citizenship claim under section 320 of the Act in the first instance and to enter a new decision.

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

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<sup>3</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).