U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 13789326

Date: MAY 4, 2023

Motion on Administrative Appeals Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad in 1985 seeks a Certificate of Citizenship to reflect that he derived citizenship as an adopted child of a U.S. citizen under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, as in effect since February 27, 2001.[1]

The Director of the New York, New York Field Office denied the Form N-600, concluding in part that the Applicant did not establish, as required that he qualified as an adopted "child" of a U.S. citizen before turning 18 years of age, and we dismissed the appeal on the same ground.

The matter is now before us on a combined motion to reopen and reconsider.

On motion, the Applicant submits additional evidence. He asserts that we misinterpreted Malian adoption laws in dismissing his appeal and renews his derivative citizenship claim.

Upon review, we will dismiss the motions.

A motion to reopen is based on documentary evidence of new facts, and a motion to reconsider must demonstrate that our decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services' (USCIS) policy to the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(2)-(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit; however, a motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

As previously discussed, to derive U.S. citizenship under section 320 of the Act an individual born abroad must have at least one U.S. citizen parent, qualify as that parent's "child,"[2] and reside in that parent's legal and physical custody in the United States as a lawful permanent resident before turning 18 years of age. *See* sections 320(a)(1)-(3) of the Act. To qualify for derivative citizenship based on adoption, the individual must also show that they were adopted through a full, final, and complete

[1] As previously discussed, the Applicant does not dispute he was ineligible to derive citizenship under former section 321 of the Act, 8 U.S.C. § 1431, which was in effect until February 27, 2001.

[2] As defined in section 101(c)(1) of the Act, 8 U.S.C. § 1101(c)(1).

adoption and that they meet the requirements applicable to adopted children. Section 320(b) of the Act; 8 C.F.R. § 320.1.

In our previous decision, which we incorporate here by reference, we concluded that the Applicant was not eligible to derive citizenship as an adopted child of a U.S. citizen, because his 2001 foreign adoption decree reflected that he was adopted only by his noncitizen adoptive mother who did not naturalize as a U.S. citizen until after the Applicant's 18th birthday. We acknowledged the Applicant's claim that the name of his U.S. citizen stepfather was omitted from the adoption decree by mistake because he was not present at the adoption hearing, and that the decree was subsequently corrected in 2017 to reflect that he also adopted the Applicant. Nevertheless, we explained that the corrected adoption decree was insufficient to establish the requisite adoptive relationship between the Applicant and his U.S. citizen stepfather given the lack of information about the legal basis for the correction of the adoption decree, and the unresolved inconsistencies in the original and corrected decrees about the party or parties who requested the adoption. We also noted that the fact the Applicant sought and was granted adjustment of status to that of a lawful permanent resident (LPR) in 2006 based on his claim that he was a stepchild of a U.S. citizen[3] raised further questions about the validity of the retroactive adoption decree he submitted, and explained that court orders which retroactively change familial relationships are generally not recognized for immigration purposes. Lastly, we noted that the Applicant did not become an LPR until he was over the statutory age of 18 years, but did not address this additional ground of ineligibility under section 320 of the Act in detail as the Applicant did not establish he qualified as his U.S. citizen stepfather's "child" for derivative citizenship purposes and was ineligible for a Certificate of Citizenship on that basis alone.[4]

The Applicant now submits a 2019 letter from an individual identified as [redacted] Lawyer to the Court of [redacted] - Mali, who states that the Applicant's U.S. citizen stepfather did not have to be present at the adoption hearing, and instead "could be validly represented by a lawyer with a general power (ad-litem) of representation." He further states that the request of the Applicant's adoptive mother resulted in the "Adoption Judgement [redacted] 2001 which was delivered 18 years ago by the District Court of the [redacted] District and which takes precedence." He opines that the 2001 adoption decree is therefore binding and "proves that the adoption procedures was [sic] complied with," and the Applicant's adoptive mother and his stepfather are his adoptive parents.

The letter alone is not sufficient to resolve the inconsistencies we noted on appeal, nor does it establish that the Applicant's U.S. citizen stepfather adopted him in 2001. As an initial matter, the letter is not accompanied by the writer's credentials or any information about the legal basis for his opinions that the adoption was procedurally correct and the applicant was adopted by both his adoptive mother and his stepfather, as it also does not contain any references to Malian adoption law.[5]

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[3] The Applicant asserts on motion that he was granted LPR status based on an immigrant visa petition filed by his adoptive mother. However, as previously discussed, the record reflects that the Applicant adjusted his status based on an approved visa petition his U.S. citizen stepfather filed in 2004, when the Applicant was 19 years old.

[4] *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).

[5] The content of foreign law is a question of fact that must be proven by the party relying on it. *See, e.g., Matter of Soleimani*, 20 I&N Dec. 99, 106 (BIA 1989); *Matter of Annang*, 14 I&N Dec. 502, 503 (BIA 1973).

Moreover, while the writer states, without citing any legal authority, that the Applicant's stepfather did not need to personally appear at the adoption hearing to adopt the Applicant, there is nothing in the original adoption decree to indicate that the stepfather was a party to the adoption, or that he authorized someone else to act on his behalf. Rather, as previously discussed the 2001 adoption decree reflects that the adoption was granted based solely on the request of the Applicant's adoptive mother who physically appeared at the hearing, and who obtained consent to the adoption from the Applicant's biological parents. Thus, the opinions expressed in the letter not only lack legal support, but also do not comport with the facts recorded in the original adoption decree.

Consequently, the Applicant has not established new facts sufficient to reopen his citizenship proceedings. Nor has he demonstrated that we erred as a matter of law or USCIS policy in concluding that that he did not qualify as his U.S. citizen stepfather's adopted child for the purposes of derivative citizenship, or that our conclusion was otherwise incorrect based on the evidence in the record at the time we dismissed his appeal. The Applicant's Form N-600 therefore remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.