



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

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

In Re: 28718490

Date: OCT. 19, 2023

Motion on Administrative Appeals Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived citizenship from her naturalized U.S. citizen 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 that 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 Baltimore, Maryland Field Office denied the Form N-600, concluding that the Applicant did not derive U.S. citizenship from her father because she was not residing in the United States as a lawful permanent resident (LPR). The Applicant appealed the Director's adverse decision to our office, requesting that we hold adjudication of her Form N-600 in abeyance until she obtained asylum in the United States and then adjusted her status to that of an LPR. We dismissed the appeal, explaining that because the Applicant had turned 18 years old in 2020 she could no longer meet the condition of residing in the United States pursuant to a lawful admission for permanent residence while "under the age of 18 years," as required in section 320(a)(2) of the Act, even if she applied for and were subsequently granted asylum and adjustment of status.

The matter is now before us on a combined motion to reopen and reconsider. The Applicant submits evidence that her asylum application is currently pending, and renews her request for a hold on adjudicating her 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 show 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).

The evidence submitted on motion does not establish a basis for reopening of the citizenship proceedings, as it does not impact our determination that the Applicant did not qualify to derive U.S. citizenship under section 320 of the Act. As previously discussed, to derive citizenship under section 320 of the Act the Applicant must satisfy all of the conditions therein, including admission to the United States as an LPR, before her 18th birthday. We acknowledge evidence that the Applicant has taken steps towards obtaining LPR status; however, as she is already over the statutory age of 18 years, any future adjustment of status will not cure her ineligibility to derive U.S. citizenship.¹ Consequently, the Applicant has not demonstrated that there are new facts sufficient to warrant reopening of her citizenship proceedings.

Furthermore, as the Applicant does not claim that we erred as a matter of law of USCIS policy in dismissing her appeal, we have no basis to reexamine that decision.

In conclusion, the Applicant has not established new facts sufficient to overcome our previous determination that she is not eligible for a Certificate of Citizenship under section 320 of the Act. Nor has she established that our previous decision was based on an incorrect application of law or policy at the time we dismissed her appeal. Consequently, the Applicant has not met the applicable requirements for either a motion to reopen or a motion to reconsider.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

¹ An asylee is generally considered an LPR one year before the date USCIS approves the adjustment application. Section 209(b) of the Act, 8 U.S.C. § 1159(b).