U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28102087

Date: SEPT. 7, 2023

Appeal of Houston, Texas Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her U.S. citizen parent under section 320 of the Act, 8 U.S.C. § 1341.

The Director of the Houston, Texas Field Office denied the application, concluding that the record did not establish that the Applicant has two U.S. citizen parents. 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

The Applicant was born in Mexico in [redacted] 1989 to two married citizens of Mexico. The Applicant's father became a naturalized U.S. citizen in November 1996, and the Applicant adjusted her status to that of a lawful permanent resident in 2000, while she remained under the age of 18 years.

With respect to the Applicant's claim that she seeks to show she has derived U.S. citizenship under section 320 of the Act conditions, the applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." The Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106- 395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended sections 320 and 322 of the Act and repealed section 321 of the Act. The amended provisions of sections 320 of the Act apply to individuals, such as the Applicant, who were not yet 18 years old as of February 27, 2001.

Section 320 of the Act, as amended by the CCA, provides, in pertinent part, that:

> (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
>
> (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
>
> (2) The child is under the age of eighteen years.
>
> (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

Moreover, the Applicant must meet the definition of a "child" in section 101(c)(1) of the Act, 8 U.S.C. § 1101(c)(1), which requires, in pertinent part, that during the relevant timeframe she must be an unmarried person under twenty-one years of age.

Because the Applicant was born abroad, she is presumed to be a foreign national and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires,* 24 I&N Dec. 467, 468 (BIA 2008). The "preponderance of the evidence" standard requires that the record demonstrate that the Applicant's claim is "probably true," based on the specific facts of her case. *See Matter of Chawathe,* 25 I&N Dec. at 376.

The Director denied the Form N-600, concluding that the Applicant had not shown that she has two U.S. citizen parents; however, section 320 of the Act, the statute under which the Applicant seeks approval of her Form N-600, only requires one U.S. citizen parent. *See* section 320(a)(1) of the Act.

Because the Director applied a condition that does not relate to whether the Applicant automatically acquired U.S. citizenship under section 320 of the Act, we are returning the matter to the Director to reconsider the Applicant's eligibility under the requirements of that statute.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis.