



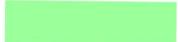
U.S. Citizenship
and Immigration
Services

(b)(6)

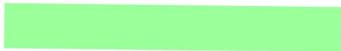


Date: FEB 27 2015

Office: WEST PALM BEACH, FL

FILE: 

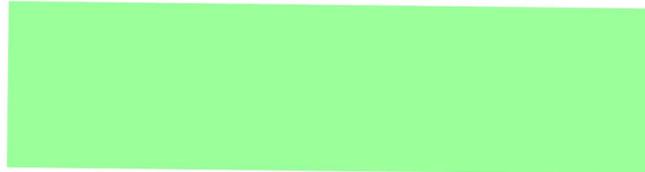
IN RE:

Applicant: 

APPLICATION:

Application for Certificate of Citizenship under Section 322 of the Immigration and Nationality Act, 8 U.S.C. § 1433

ON BEHALF OF APPLICANT:

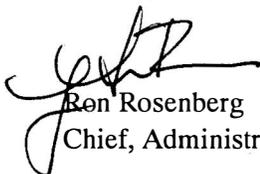


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ren Rosenberg".

Ren Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, West Palm Beach, Florida (director) denied the applicant's Form N-600K, Application for Certificate of Citizenship and Issuance of Certificate under Section 322. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

Pertinent Facts and Procedural History

The applicant was born in Greece on [REDACTED]. His mother, [REDACTED] was born in Greece but became a U.S. citizen upon her naturalization on August 27, 1986. The applicant's maternal grandfather was naturalized on July 9, 1980. The applicant, through his mother, seeks a certificate of citizenship pursuant to section 322 of the Act, 8 U.S.C. § 1433.

The director denied the application upon finding that the applicant was not residing outside the United States as required by section 322(a)(4) of the Act. On appeal, the applicant maintains that he was temporarily in the United States with his mother for the sole purpose of obtaining his certificate of citizenship. See Appeal Brief. The applicant further explains that he permanently resides in Greece with his parents. *Id.*

Applicable Law

We review these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). By filing this Form N-600K, the applicant's mother is seeking a certificate of citizenship for the applicant under section 322 of the Act, which provides, in pertinent part that:

(a) A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320 [of the Act]. The [Secretary of Homeland Security (the Secretary)] shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the [Secretary], that the following conditions have been fulfilled:

(1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent--

(A) has . . . been 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; or

(B) has . . . a citizen parent who has been 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.

- (3) The child is under the age of eighteen years.
- (4) The child is residing outside of the United States in the legal and physical custody of the applicant [citizen parent]
- (5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section [337(a) of the Act], upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this [Act] of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the [Secretary] with a certificate of citizenship.

* * *

Analysis

The applicant is a minor, born in [redacted] U.S. Citizenship and Immigration Services (USCIS) received the Form N-600K on July 31, 2013. The applicant's home address was listed on the Form N-600K at Part 2 in [redacted] Florida. The applicant's mother's home address is listed in Part 3 also in [redacted] Florida. In support of the appeal, however, the applicant's mother states that the family's permanent address is in Greece. The applicant's mother explains further that she traveled to the United States with the applicant, temporarily, solely for the purpose of obtaining his certificate of citizenship. The applicant's mother indicates that the [redacted] Florida address is that of her father, who has been continuously residing in the United States. The applicant's maternal grandfather executed a corroborating statement.

A preponderance of the relevant evidence in the record establishes that the applicant was residing outside of the United States in the legal and physical custody of his mother when the Form N-600K was filed, and was only temporarily present in the United States while the adjudication of his application was pending. Regardless of the possibility that applicant's parents' may reside in the United States in the future, the applicant and his mother were present in the United States only temporarily and did not permanently abandon their residence in Greece.¹ Consequently, the applicant has met the conditions of section 322(a)(4) of the Act, which requires an applicant to reside outside of the United States in the legal and physical custody of his U.S. citizen parent.

¹ "The term 'residence' means the place of general abode; the place of general abode of a person means his principal, actual dwelling place, in fact, without regard to intent." Section 101(a)(33) of the Act.

Conclusion

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 341 of the Act, 8 U.S.C. § 1452. Here, that burden has been met.

ORDER: The appeal is sustained and the matter returned to the Director of the West Palm Beach, Florida Field Office for issuance of a certificate of citizenship to the applicant.