



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 23 2015

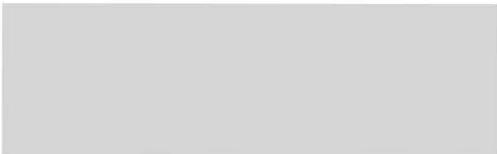
FILE #: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

IN RE: APPLICANT: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under former Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431 (repealed)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, San Fernando Valley, California, denied the Application for Certificate of Citizenship (Form N-600) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born in Mexico on [REDACTED]. On January 28, 1983, the applicant was adopted by U.S. citizen [REDACTED], and his lawful permanent resident wife, [REDACTED] in [REDACTED] California. On May 22, 1989, the applicant was granted status as a lawful permanent resident at the age of [REDACTED]. The applicant's adoptive mother became a U.S. citizen upon her naturalization on December 14, 1989, when the applicant was [REDACTED] years old. The applicant seeks a Certificate of Citizenship showing that he derived U.S. citizenship from his mother pursuant to former section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431 (1989).

The director determined that the applicant did not meet the requirements for issuance of a certificate of citizenship under sections 322 and 341(c) of the Act because he was over 18 years old when he filed his Form N-600, and denied the application, accordingly. On appeal, the applicant contends that the director erroneously applied sections 322 and 341(c), which applied to applications for naturalization of foreign-born children by U.S. Citizen parents, and asserts that, as the applicant met all the requirements of section 320, this section is controlling.¹

We conduct appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Because the applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008).

The applicable law for derivative citizenship purposes is that in effect at the time the critical events giving rise to eligibility occurred. *Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005); *accord Jordon v. Attorney General*, 424 F.3d 320, 328 (3d Cir. 2005). Here, the director did not address derivative citizenship under section 320 of the Act, 8 U.S.C. § 1431, as amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000). We note that current section 320 is inapplicable to this case because the applicant was over 18 years old on the effective date of the CCA. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). The applicant asserts no other basis for automatic acquisition of U.S. citizenship under the Act.

On de novo review, however, we note that *former* section 320 of the Act, repealed by the CCA, governs this case as it addresses the situation of children born outside the country of one alien and one citizen parent and was in effect at the time the critical events giving rise to eligibility occurred, including the applicant's mother's naturalization in 1989.

Former section 320 of the Act provided:

¹ It is not clear whether the applicant claims to have met the requirements of former section 320 or current section 320 of the Act, 8 U.S.C. § 1431, as amended by the Child Citizenship Act of 2000 (CCA).

(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

(1) such naturalization takes place while such child is under the age of eighteen years; and

(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.

Here, the applicant meets all of the requirements set forth in former section 320 of the Act. First, school records, immunization records, and other documents showing a common address establish that, at the time of his mother's naturalization, the applicant had been adopted and was living in California in the custody of his adoptive parents. Second, the applicant's adoptive father has been a U.S. citizen since birth and his adoptive mother became a citizen of the United States by naturalization before the applicant turned 18. Third, the applicant had been residing in the United States pursuant to a lawful admission for permanent residence since adjusting his status to that of permanent resident on May 22, 1989, at the time his mother naturalized on December 14, 1989. Accordingly, the record establishes that the applicant satisfied the requirements for derivative citizenship set forth in former section 320 of the Act before his eighteenth birthday.

It is the applicant's burden to establish the claimed citizenship by a preponderance of the evidence. Section 341(a) of the Act, 8 U.S.C. § 1452(a); 8 C.F.R. § 341.2(c). Here, that burden has been met.

ORDER: The appeal is sustained.