



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 30 2015

FILE #: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1431

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

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

Thank you,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Chula Vista, California, denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on [REDACTED] in Mexico. The applicant's parents married on [REDACTED] 2007. The applicant's father became a U.S. citizen upon his naturalization on October 26, 2004, when the applicant was [REDACTED] years old. The applicant was admitted to United States as a lawful permanent resident on June 20, 2009, at the age of [REDACTED]. The applicant seeks a certificate of citizenship claiming that she derived U.S. citizenship through her father.

The Field Office Director determined that the applicant failed to properly respond to a Request for Evidence for proof of residence to establish that she lived in the United States from 2009 to the present. The Form N-600, Application for Certificate of Citizenship, was denied accordingly. *See Decision of the Field Office Director*, dated January 8, 2014.

On appeal, filed on February 5, 2014, and received by the AAO on January 5, 2015, the applicant's father provides evidence of his daughter's residence in the United States, including school documents and an affidavit filed by the applicant's grandfather.

The AAO conducts 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, she is presumed to be an alien and bears the burden of establishing her 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 "preponderance of the evidence" standard requires that the record demonstrate that the applicant's claim is "probably true," based on the specific facts of each case. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r. 1989)).

The applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." *See Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005). Section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), applies to this appeal because the applicant was born after [REDACTED], the effective date of the CCA. Section 320(a) of the Act, 8 U.S.C. § 1431(a), provides:

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.

Here, the applicant meets all of the requirements set forth in section 320(a) of the Act. First, the applicant's father became a citizen of the United States by naturalization when the applicant was two years old. The applicant's father legitimated the applicant through marriage to her mother on [REDACTED] 2007. Second, the applicant is currently under the age of 18 years. Third, the applicant has been residing in the United States pursuant to a lawful admission for permanent residence since June 20, 2009, at the age of [REDACTED]. The applicant's residence in the United States has been established through an affidavit filed by the applicant's grandfather dated January 31, 2014, stating that the applicant has been residing with him and her father at a [REDACTED] California address since 2009. In addition, the evidence on record shows that the applicant has been attending elementary school in [REDACTED] California since the academic school year beginning in 2011. The applicant filed her Form N-600 on April 1, 2013. An applicant's eligibility is established at the time of filing. *Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971). Section 320(a) of the Act states that a child born outside the United States automatically becomes a citizen of the United States when the requirements under this section are fulfilled, so the applicant's citizenship vested upon fulfillment of the last statutory requirement. *See In re Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Accordingly, the record establishes that all the conditions for the automatic acquisition of U.S. citizenship pursuant to section 320 of the Act have been met.

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.