U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: JUN 25 2015

FILE #:
APPLICATION RECEIPT #:

IN RE:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

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

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The District Director, New York, New York, denied the application, 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 on in the Philippines to and The applicant's parents were married in 1988. The applicant became a lawful permanent resident on July 31, 2006, and his father filed an Application for Certificate of Citizenship (Form N-600) for him on December 29, 2011. The applicant's father and mother became U.S. citizens upon their naturalizations, respectively, on July 31, 2012 and August 9, 2012, when the applicant was years old. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship through his father pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director determined that the applicant failed to meet all the citizenship requirements of section 320 of the Act at the time of filing and, accordingly, denied the application. On appeal, the applicant claims that the denial was erroneous since he had met the requirements by the time the director's decision issued on May 31, 2013.

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).

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 not yet 18 years old as of the February 27, 2001 effective date of the CCA. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 156 (BIA 2001) (en banc). Section 320(a) of the Act provides:

> (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.

Under 8 C.F.R. § 320.3(b)(1)(iv), an applicant applying for citizenship under section 320 of the Act must submit evidence of U.S. citizenship of his or her parent.

An applicant may file only one Form N-600.[1] Where factual circumstances change subsequent to the Form N-600 filing, the applicant should bring the matter to the attention of the officer who issued the denial decision. In the statement "block" on the Form I-290B, the applicant directly addresses these concerns to the district director and requests reconsideration. We note that the filing appears to have been submitted to the district office, which forward it to the AAO rather than consider it as a motion to reopen and/or reconsider.

Although the applicant now meets all of the requirements set forth in section 320(a) of the Act, the director denied the application as premature, as it was filed before either of his parents had naturalized. The record reflects that the applicant's parents became U.S. citizens before the applicant turned 18, and that he had been residing in the United States in their custody pursuant to a lawful admission for permanent residence since 2006, but that the application was filed on December 29, 2011, prior to the naturalization of his father (the earlier of his parents to do so). While the record shows that the applicant's parents became naturalized U.S. citizens after the applicant's Form N-600 was filed, the record also reflects that their naturalization occurred prior to the director's issuance of a final decision in the applicant's case. Because the applicant had automatically derived U.S. citizenship from his father pursuant to section 320 of the Act at the time of the director's decision, the director's decision shall be withdrawn.

As we find the applicant to have established fulfillment of the requirements for a certificate of citizenship after filing the Form N-600 and before filing the Form I-290B, Notice of Appeal or Motion and, further to have requested the director to revisit the matter, we remand the matter to the director for issuance of a certificate of citizenship.

The burden of proof rests on the claimant to establish the claimed citizenship by a preponderance of the evidence. *See* 8 C.F.R. § 341.2(c). Here, the applicant has met this burden. Accordingly, the matter will be returned to the director for further action in accordance with this decision.

ORDER: The appeal is sustained, the director's decision withdrawn, and the matter remanded for further action.

[1] As indicated in the form's instructions, if "[y]ou already filed a Form N-600 and received a decision from USCIS on that previously filed Form N-600[,] USCIS will reject (not accept) any subsequently filed Form N-600." "Who Should Not File This Form," *Instructions for Form N-600, Application for Certificate of Citizenship.*