

(b)(6)



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-O-L-

DATE: FEB. 16, 2016

APPEAL OF HOUSTON FIELD OFFICE DECISION

APPLICATION: FORM N-600, APPLICATION FOR CERTIFICATE OF CITIZENSHIP

The Applicant, a native and citizen of the United Kingdom, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) §§ 301 and 309, 8 U.S.C. §§ 1401 and 1409. The Field Office Director, Houston, Texas, denied the application. The matter is now before us on appeal. The appeal will be sustained.

The record reflects that the Applicant was born in the United Kingdom on [REDACTED] to a U.S. citizen father and a non-U.S. citizen mother. The Applicant's parents were unmarried at the time of the Applicant's birth, but subsequently married on [REDACTED] 2015, in [REDACTED] Texas. The Applicant was admitted to the United States as a visitor on October 2, 2014. The Applicant seeks a certificate of citizenship indicating that he acquired U.S. citizenship through his father.

In a decision dated May 2, 2015, the Director considered the Applicant's claim for U.S. citizenship under section 320 of the Act, 8 U.S.C. § 1431, and determined that the Applicant did not establish that he was residing in the United States pursuant to a lawful admission for permanent residence. The Director denied the Form N-600, Application for Certificate of Citizenship, accordingly.

On appeal, the Applicant did not provide any evidence to establish that he was residing in the United States pursuant to a lawful admission for permanent residence; however, the Applicant did provide evidence in order to establish that he acquired citizenship at birth pursuant to sections 301(g) and 309(a) of the Act.

We conduct appellate review on a *de novo* basis. The entire record was reviewed and considered in rendering a decision on the appeal.

Because the Applicant was born abroad, he is presumed to be a foreign national 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 "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)).

(b)(6)

Matter of S-O-L-

Section 301(g) of the Act provides, in pertinent part, that the following shall be citizens of the United States at birth:

[A] person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was 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

The record establishes that the Applicant's father became a naturalized U.S. citizen on October 21, 2009, prior to the birth of the Applicant.

On appeal, the Applicant submits evidence that his father was physically present in the United States for more than five years, all of which were after he attained the age of 14 years. The Applicant's father was born [REDACTED], 1960. Evidence submitted to the record on appeal includes a social security statement for the Applicant's father showing that he had income in the United States beginning in 2005, when he was [REDACTED] years old, and in each subsequent year through 2013, which indicates that the Applicant's father resided in the United States for at least nine years between 2005 and 2014. Additional evidence includes copies of the federal income tax returns for the Applicant's father for 2011 and 2013, the Applicant's father's naturalization certificate dated October 21, 2009, a copy of the Applicant's father's passport issued on October 27, 2009, and a copy of the Texas divorce certificate between the Applicant's father and a previous spouse, dated [REDACTED] 2014. The divorce decree indicates that the Applicant's father had two children born in the United States in [REDACTED]. Therefore, the Applicant has established by a preponderance of the evidence that his U.S. citizen father was physically present in the United States for more than five years, at least two of which were after attaining the age of fourteen, as required under section 301(g) of the Act.

The Applicant was born out of wedlock on [REDACTED] in the United Kingdom. Therefore, in order to acquire U.S. citizenship through his father, the Applicant must also meet the requirements set forth in section 309(a) of the Act.

Section 309(a) of the Act states, in relevant part:

(a) The provisions of paragraphs (c), (d), (e), and (g) of section 301 . . . shall apply as of the date of birth to a person born out of wedlock if-

- (1) a blood relationship between the person and the father is established by clear and convincing evidence,
- (2) the father had the nationality of the United States at the time of the person's birth,
- (3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and
- (4) while the person is under the age of 18 years-

(b)(6)

Matter of S-O-L-

- (A) the person is legitimated under the law of the person's residence or domicile,
- (B) the father acknowledges paternity of the person in writing under oath, or
- (C) the paternity of the person is established by adjudication of a competent court.

On appeal, the Applicant submits additional evidence to establish that he qualifies for U.S. citizenship under section 309(a) of the Act.

The Applicant submits a DNA paternity test report, which establishes a blood relationship between the Applicant and his U.S. citizen father by clear and convincing evidence, in accordance with section 309(a)(1) of the Act.

As previously discussed, the record includes copies of the naturalization certificate and U.S. passport of the Applicant's father, which demonstrate that his father had the nationality of the United States at the time of the Applicant's birth, fulfilling the requirements of section 309(a)(2) of the Act.

Furthermore, the Applicant's father has submitted a sworn statement indicating he will provide financial support to the Applicant until he becomes 18 years of age, as required by section 309(a)(3) of the Act.

And finally, the Applicant submits a copy of the marriage certificate of his mother and father indicating that they were married in Texas on [REDACTED] 2015, thereby establishing that the Applicant was legitimated under the laws of the Applicant's domicile or residence, in accordance with section 309(a)(4)(A) of the Act, and a sworn statement from the Applicant's father acknowledging paternity of the Applicant, which meets the requirements in section 309(a)(4)(B) of the Act.

As such, the Applicant has established that he acquired U.S. citizenship through his father in accordance with sections 301(g) and 309(a) of the Act.

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.

Cite as *Matter of S-O-L-*, ID# 15406 (AAO Feb. 16, 2016)