



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

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

MATTER OF D-M-I-S-

DATE: JUNE 23, 2016

APPEAL OF MIAMI, FLORIDA FIELD OFFICE DECISION

APPLICATION: FORM N-600K, APPLICATION FOR CITIZENSHIP AND ISSUANCE OF  
CERTIFICATE UNDER SECTION 322

The Applicant's mother, a native and citizen of the United States, seeks a Certificate of Citizenship on behalf of her child. *See* Immigration and Nationality Act (the Act) section 322, 8 U.S.C. § 1433. A U.S. citizen parent may apply for a Certificate of Citizenship on behalf of a child residing outside the United States if the child is residing in the U.S. citizen parent's custody, and that parent, or the citizen parent's parent, had been physically present in the United States for 5 years, 2 of which were after the parent turned 14 years old.

The Field Office Director, Miami, Florida, denied the application. The Director concluded that the record contained insufficient evidence to demonstrate that the Applicant's U.S. citizen parent or grandparent was physically present in the United States for at least 5 years, as required under the Act.<sup>1</sup>

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence, and claims that the Director erred in not approving her Form N-600K, Application for Citizenship and Issuance of Certificate under Section 322. She asserts that evidence in the record demonstrates that her citizen maternal grandmother was physically present in the United States for over 5 years, and that she has satisfied the requirements for issuance of a Certificate of Citizenship as set forth in section 322 of the Act.

Upon *de novo* review, we find that the Applicant has met her burden of proof, and we remand the matter to the Director for further proceedings consistent with this decision.

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<sup>1</sup> The Director's decision erroneously stated that the Applicant filed a Form N-600, Application for Certificate of Citizenship, and that the Applicant's claim was adjudicated under section 320 of the Act, 8 U.S.C. § 1431, rather than under section 322 of the Act. The statutory provisions and analysis contained in the decision, however, correspond to citizenship requirements set forth in section 322 of the Act, not section 320. As we are reviewing the matter *de novo*, these errors do not impact our adjudication.

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## I. LAW

The Applicant is a minor, born in the Dominican Republic on [REDACTED] Her father is a citizen of the Dominican Republic. Her mother was born in Puerto Rico and is a citizen of the United States. The Applicant claims eligibility for issuance of a Certificate of Citizenship under section 322 of the Act through her U.S. citizen mother.

As amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, section 322 of the Act applies to children born and residing outside of the United States. It provides, in pertinent part:

(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. The [Secretary of Homeland Security] 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 [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 . . . upon taking and subscribing before an officer of the Service within the United States to the

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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.

## II. ANALYSIS

The Director concluded that the record contained insufficient evidence to demonstrate that the Applicant's U.S. citizen parent or grandparent was physically present in the United States for at least 5 years, as required under the Act. On appeal, the Applicant claims that evidence in the record demonstrates that her U.S. citizen maternal grandmother was physically present in the United States for over 5 years, and that she has satisfied the requirements for issuance of a Certificate of Citizenship as set forth in section 322 of the Act. The Applicant submits a copy of her mother's U.S. passport, and she resubmits birth certificate evidence for herself, her mother, and her maternal grandmother, as well as marriage certificate evidence, and secondary and university school records for her grandmother. The record also includes previously submitted social security earnings records and a baptism certificate for the Applicant's maternal grandmother. Upon a review of the entire record, we find the Applicant has demonstrated that her citizen grandmother was physically present in the United States for at least 5 years, 2 years of which occurred after her grandmother turned 14, and that the Applicant is consequently eligible for a Certificate of Citizenship.

The Applicant has established that she meets several requirements for issuance of a Certificate of Citizenship under section 322 of the Act. Birth certificate and U.S. passport evidence in the record demonstrate that the Applicant's mother was born in Puerto Rico on [REDACTED] and that she is a U.S. citizen. The Applicant therefore satisfied the conditions contained in section 322(a)(1) of the Act. The Applicant's birth certificate also reflects that the Applicant is a [REDACTED] year-old minor. She therefore meets the age requirements in section 322(a)(3) of the Act. The Applicant also established that she resides abroad in her U.S. citizen mother's legal and physical custody, as required under section 322(a)(4) of the Act. The record contains the Applicant's parents' marriage certificate, reflecting their marriage in the Dominican Republic prior to the Applicant's birth, and Form N-600K statements reflect that the Applicant's parents remain married. In addition, correspondence between the Applicant's parents and U.S. Citizenship and Immigration Services (USCIS) reflects that the Applicant resides with her parents in the Dominican Republic.

Requirements contained in section 322(a)(2) of the Act allow for U.S. physical presence requirements to be met by the child's U.S. citizen parent, or alternatively by the citizen parent of the child's U.S. citizen parent. The Applicant does not claim that her citizen mother was physically present in the United States for 5 years, as required under section 322(a)(2)(A) of the Act, and the record does not contain evidence to demonstrate such physical presence. However, documentation establishing that the U.S. citizen grandparent meets the required physical presence requirements may also be used to satisfy section 322(a)(2) requirements. *See* section 322(a)(2)(B). *See also* 8 C.F.R. § 322.3(b)(vii). The issue in this case is whether the record demonstrates, by a preponderance of the evidence, that the Applicant's maternal grandmother satisfies U.S. citizen and U.S. physical presence requirements contained in section 322(a)(2)(B) of the Act.

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The evidence in the record sufficiently demonstrates that the Applicant's maternal grandmother satisfies U.S. citizenship and U.S. physical presence requirements contained in section 322(a)(2)(B) of the Act. Birth certificate evidence reflects that the Applicant's maternal grandmother was born in Puerto Rico on [REDACTED] and that she is a U.S. citizen. In addition, baptism evidence reflects that the Applicant's grandmother was baptized in Puerto Rico on [REDACTED] 1952. The record also includes school transcripts reflecting that the Applicant's grandmother attended secondary school in Puerto Rico between 1966 and 1969, that she obtained her secondary school diploma in Puerto Rico in May 1970, and that she attended the [REDACTED] in 1971 and 1972. Social security evidence reflects United States earnings by the Applicant's grandmother every year between 1969 and 1973. Evidence reflects further that the Applicant's grandmother married in Puerto Rico in [REDACTED] 1972, and that she gave birth to the Applicant's mother in Puerto Rico in [REDACTED]. Upon review the record demonstrates, by a preponderance of the evidence, that the Applicant's U.S. citizen maternal grandmother was physically present in the United States for over 5 years between 1952 and 1975, at least 2 years of which occurred after her grandmother turned 14, on [REDACTED]. Accordingly, the Applicant has satisfied the conditions set forth in section 322(a)(2) of the Act.

Section 322(a)(5) of the Act requires the child to be temporarily present in the United States pursuant to a lawful admission. The regulation at 8 C.F.R. § 322.4 provides that the U.S. citizen parent and the child must appear in person before a USCIS officer for examination on the application under section 322 of the Act. Here, the record reflects that the Applicant and her mother are in the Dominican Republic. This matter will therefore be returned to the Miami, Florida Field Office to schedule an interview on the Applicant's Form N-600K application.

### III. CONCLUSION

In view of the above, the Applicant has demonstrated that her U.S. citizen maternal grandmother was physically present in the United States for over 5 years, at least 2 years of which occurred after her grandmother turned 14, as required under section 322(a)(2) of the Act. The Applicant has also demonstrated that the requirements for a Certificate of Citizenship, as set forth in section 322(a)(1), (a)(3), and (a)(4) of the Act, have been met, and that upon lawful admission into the United States, and maintenance of such status, she may be eligible for issuance of a Certificate of Citizenship pursuant to section 322 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). The Applicant has met that burden. Accordingly, we remand the matter to the Director for scheduling of an interview to fulfill the requirements under section 322(b) of the Act.

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**ORDER:** The decision of the Field Office Director, Miami, Florida, is withdrawn. The matter is remanded to the Field Office Director, Miami, Florida, for further proceedings consistent with the foregoing opinion and for entry of a new decision.

Cite as *Matter of D-M-I-S-*, ID# 16250 (AAO June 23, 2016)