



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

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

MATTER OF F-R-N-F-

DATE: MAY 18, 2016

APPEAL OF NEWARK, NEW JERSEY FIELD OFFICE DECISION

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

The Applicant, a native and citizen of the Dominican Republic, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) section 321, 8 U.S.C. § 1432, *repealed by* Sec. 103(a), title I, Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (2000). An individual born outside the United States who acquired U.S. citizenship at birth, or who automatically derived U.S. citizenship after birth but before the age of 18, may apply to receive a Certificate of Citizenship. *See* section 341(a) of the Act, 8 U.S.C. § 1452.

The Field Office Director, Newark, New Jersey, denied the application. The Director concluded that the Applicant did not establish derivative citizenship under former section 321 of the Act, because he did not demonstrate that he was in the U.S. citizen father's legal custody.¹

The matter is now before us on appeal. In the appeal, the Applicant states that the Director's decision was in error. The Applicant claims that his mother transferred full custody of the children to the Applicant's father in 1988 through a private notary public and that since that time his father had legal custody of the Applicant. The Applicant states that this custody modification was in compliance with the laws of the Dominican Republic, and that he has thus satisfied the legal custody requirement of former section 321 of the Act.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant seeks a certificate of citizenship indicating that he derived U.S. citizenship from the Applicant's U.S. citizen father. Section 341(a) of the Act provides that a person who claims to have derived U.S. citizenship through naturalization of a parent may apply to the Attorney General (now the Secretary of the Department of Homeland Security) for a certificate of citizenship, and that upon

¹ The Director also found that the Applicant was ineligible for derivative citizenship pursuant to section 320 of the Act, 8 U.S.C. § 1432, because he was over 18 years of age when the provision went into effect on February 27, 2001. The Applicant does not contest this determination on appeal.

(b)(6)

Matter of F-R-N-F-

satisfaction that such person is a citizen, as claimed, the Secretary shall furnish a certificate of citizenship, but only if such individual is at the time within the United States.

The Secretary of the Department of Homeland Security has jurisdiction over the administration and enforcement of the Act within the United States. *See* section 103(a)(1) of the Act, 8 U.S.C. § 1103(a)(1). A citizenship claim made by an individual physically present outside of the United States may only be properly made before the U.S. Department of State (DOS) through a consular officer. *See* Section 104(a) of the Act, 8 U.S.C. § 1104(a) (providing, in pertinent part, that the “Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to ... (3) the determination of nationality of a person not in the United States”); *see also* 22 C.F.R. § 50.2 (providing that DOS “[s]hall determine claims to United States nationality, when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America”)

II. ANALYSIS

The record reflects that the Applicant was born to married parents in the Dominican Republic on [REDACTED]. The Applicant’s parents subsequently divorced on [REDACTED] 1979, and the Applicant’s mother was granted custody of the Applicant and his two siblings. The Applicant’s father became a U.S. citizen through naturalization on September 2, 1987. There is no evidence that the Applicant’s mother is a U.S. citizen. The Applicant was admitted to the United States as a lawful permanent resident on [REDACTED] 1989. On [REDACTED] 2000, the Applicant was removed from the United States to the Dominican Republic under an order of removal entered against him on December 29, 1997. On May 29, 2015, the Applicant filed Form N-600, Application for Certificate of Citizenship, claiming that he derived U.S. citizenship from his father pursuant to former section 321 of the Act. The Applicant represented on his Form N-600, which he signed on May 11, 2015, that he resided in the Dominican Republic.

On appeal, the Applicant states that he currently resides in the Dominican Republic. As the record reflects that the Applicant was outside of the United States when he filed his Form N-600 and that he continues to reside outside of the United States at this time, jurisdiction to adjudicate his claim to U.S. citizenship lies within the U.S. Department of State, not U.S. Citizenship and Immigration Services. Because we have no jurisdiction to adjudicate the Applicant’s Form N-600, we find that discussion of the merits of his derivative citizenship claim would serve no purpose.

III. CONCLUSION

A citizenship claim made by an individual physically present outside of the United States may only properly be made before the U.S. Department of State. Because the Applicant resides in the Dominican Republic, we do not have jurisdiction over his claim to U.S. citizenship. Accordingly, we must dismiss the Applicant’s appeal.

Matter of F-R-N-F-

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 not met that burden. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of F-R-N-F-*, ID# 15927 (AAO May 18, 2016)