



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

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

MATTER OF Y-C-A-

DATE: NOV. 22, 2017

APPEAL OF MIAMI, FLORIDA FIELD OFFICE DECISION

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

The Applicant's father, a citizen of the United States, seeks a Certificate of Citizenship on behalf of the Applicant, who was born in Brazil in [REDACTED]. 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 of the United States if the child is residing in that parent's custody, and the parent, or the parent's U.S. citizen parent (the child's grandparent), had been physically present in the United States for 5 years, 2 of which were after the parent turned 14 years old. U.S. Citizenship and Immigration Services (USCIS) will issue a Certificate of Citizenship to a child who meets the above eligibility criteria, provided that the child is under the age of 18 years.

The Director of the Miami, Florida, Field Office denied the application, concluding that the evidence was insufficient to establish the claimed biological relationship between the Applicant's father and her U.S. citizen grandmother, and to show that the grandmother had the requisite physical presence in the United States.

On appeal, the Applicant's father submits a copy of his birth certificate and asserts that the Director erred in not approving the Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322, he filed on the Applicant's behalf. He claims he has demonstrated that he was born to a U.S. citizen mother, the Applicant's grandmother, who met the physical presence requirements of section 322 of the Act, and that a Certificate of Citizenship should therefore be issued to the Applicant.

Upon *de novo* review, we will dismiss the appeal. The Applicant is not eligible for issuance of a Certificate of Citizenship under section 322 of the Act because she is over 18 years old.

I. LAW

The record reflects that the Applicant was born to married parents in Brazil in [REDACTED]. Her mother is a native and citizen of Brazil. Her father was born in Brazil, but he is a U.S. citizen, as evidenced by copies of his Form FS-545, U.S. Department of State certification of birth and U.S. passports.

Section 322 of the Act, as amended by the Child Citizenship Act (CCA) of 2000 (Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000)), applies to children of U.S. citizens born and residing outside of the United States. It provides, in pertinent part that:

(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 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 (emphasis added).

II. ANALYSIS

As stated above, USCIS will issue a Certificate of Citizenship to a child who is regularly residing abroad in the U.S. citizen parent's legal and physical custody, if the parent (or the Applicant's U.S. citizen grandparent) meets certain physical presence requirements and the child is temporarily present in the United States pursuant to a lawful admission. However, a child who satisfies these conditions must be under 18 years old to receive a Certificate of Citizenship. Section 322(a)(3) of the Act.

The record in this case reflects that in November 2016, when the Applicant was ■ years and ■ months old, her U.S. citizen father filed Form N-600K to obtain a Certificate of Citizenship on her behalf. The application was denied in March 2017 based on determination that evidence was insufficient to show that the Applicant's grandmother was related to her father and that she was physically present in the United States for the requisite time period. In ■ 2017, a few weeks after the Applicant's 18th birthday, her father filed the instant appeal and submitted additional documents to overcome the reasons for the denial of the Form N-600K.

Unfortunately, because the Applicant is now over the age limit set forth in section 322(a)(3) of the Act, she is statutorily ineligible for issuance of a Certificate of Citizenship, even if she may have once met the remaining requirements of section 322 of the Act. Accordingly, we do not reach the issue of whether the documents submitted on appeal establish that the Applicant has a U.S. citizen grandparent with qualifying physical presence in the United States, or whether the Applicant also satisfies other conditions in section 322 of the Act concerning her residence abroad in the father's legal and physical custody, and her temporary presence in the United States pursuant to a lawful admission.

III. CONCLUSION

The Applicant is not eligible for issuance of a Certificate of Citizenship under section 322 of the Act because she is over 18 years old.

ORDER: The appeal is dismissed.

Cite as *Matter of Y-C-A-*, ID# 691850 (AAO Nov. 22, 2017)