U.S. Citizenship and Immigration Services

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

MATTER OF M-V-G-C-

DATE: SEPT. 13, 2018

APPEAL OF IMPERIAL, CALIFORNIA FIELD OFFICE DECISION

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

The Applicant, who was born in Mexico in 1999, seeks a Certificate of Citizenship reflecting he derived U.S. citizenship from his adoptive U.S. citizen father. Immigration and Nationality Act (the Act) § 320, 8 U.S.C. § 1431. An individual born outside the United States, who automatically derived U.S. citizenship after birth but before the age of 18, may apply to receive a Certificate of Citizenship. Generally, for an individual claiming automatic U.S. citizenship after birth and who was born after February 27, 1983, the individual must have at least one U.S. citizen parent and be residing in that parent's custody in the United States as a lawful permanent resident before 18 years of age.

The Director of the Imperial, California Field Office denied the application, concluding that because the Applicant's U.S. citizen father did not adopt him before he turned 16, he could not qualify as his adoptive father's "child" for derivative citizenship purposes.

On appeal the Applicant submits additional evidence, and indicates that the record shows his eligibility to derive U.S. citizenship through his adoptive father.

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

## I. LAW

The Applicant was born in Mexico on [redacted] 1999, to foreign national parents. His mother married a U.S. citizen in 2011, and in 2012 the Applicant was admitted to the United States for permanent residence as the stepchild of a U.S. citizen.[1] The Applicant was adopted by his U.S. citizen stepfather in either [redacted] 2015 or [redacted] 2017, and he filed a Form N-600 claiming derivative U.S. citizenship through his adoptive father in [redacted] 2017.[2]

For derivative citizenship purposes, we apply "the law in effect at the time the critical events giving rise to eligibility occurred." *See Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005).

[1] His stepfather became a naturalized U.S. citizen in [redacted] 2009. There is no evidence indicating that the Applicant's mother became a U.S. citizen.

[2] As discussed later, the fact that the Applicant's adoption date is unclear does not affect our decision in this case.

Section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631, which was in effect when the Applicant turned 16 (in September 2015) and when he turned 18 (in September 2017), applies to his derivative citizenship claim.

Again, section 320(a) of the Act provides that for an individual claiming automatic U.S. citizenship after birth, the individual must have at least one U.S. citizen parent and be residing in that parent's custody in the United States as a lawful permanent resident before 18 years of age. However, because the Applicant is claiming U.S. citizenship through his adoptive parent, he must also meet sections 101(b)(1) and 320(b) of the Act requirements. Namely, he must demonstrate, among other things, that he is an unmarried person under twenty-one years of age, and he was adopted while under the age of sixteen years. Section 101(b)(1) of the Act. The term "adopted" as used in section 320(b) of the Act refers to a full, final and complete adoption. 8 C.F.R. § 320.1.

In addition, 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).

## II. ANALYSIS

The issue on appeal is whether the Applicant has provided sufficient evidence to establish that he meets the definition of a "child" as set forth in section 101(b)(1) of the Act. Upon review, we find that he has not.

The Applicant indicates that the Director applied an erroneous [redacted] 2017 final adoption date in his case, and that evidence shows that he was adopted in [redacted] 2015 rather than in 2017. To support his assertions, the Applicant submits an adoption agreement and order with the [redacted] 2015 date.

The Applicant also submits a California court order delayed registration of birth which references the [redacted] 2015 court order date. This registration of birth order is dated on [redacted] 2016. However, the record also contains another California delayed registration of birth document for the Applicant reflecting that his adoption order was issued on [redacted] 2017.[3]

We find it is unnecessary to determine which adoption order date is correct, since the Applicant turned 16 on [redacted] 2015. Both the [redacted] 2015 and [redacted] 2017 adoption dates therefore occurred after the Applicant's 16th birthday. He therefore does not meet the definition of a "child" set forth in subsection 101(b)(1)(E)(i) of the Act.

Because the Applicant does not qualify as a "child," as required at section 320(b) of the Act, it also serves no purpose to determine whether he satisfied the conditions set forth in section 320(a) of the Act.

[3] This second document indicates that the [redacted] 2016 registration date was corrected to a [redacted] 2017 registration date.

## III. CONCLUSION

The Applicant has not demonstrated that he was adopted prior to turning 16, so consequently, he has not shown that he qualifies as his adoptive father's "child." Accordingly, he has not established eligibility for a Certificate of Citizenship pursuant to section 320 of the Act.

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-V-G-C-*, ID# 1805496 (AAO Sept. 13, 2018)