



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

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

In Re: 18286332

Date: FEB. 28, 2022

Motion on Administrative Appeals Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad in 1984, seeks a Certificate of Citizenship to reflect that he derived citizenship from his naturalized U.S. citizen father pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

To establish derivative citizenship under section 320 of the Act, an individual born abroad to noncitizen parents must satisfy certain conditions on or after February 27, 2001, when that section went into effect.<sup>1</sup> Pursuant to section 320 of the Act, a child will automatically derive U.S. citizenship if he or she (1) is under the age of 18 years; (2) has one U.S. citizen parent, whether by birth or naturalization; and (3) is residing in that parent's legal and physical custody in the United States as a lawful permanent resident.

The Director of the Baltimore, Maryland Field Office denied the Form N-600, concluding in pertinent part that the Applicant did not derive U.S. citizenship from his father under section 320 of the Act because the Applicant had never resided in the United States as a lawful permanent resident. The Applicant filed a timely appeal. In our decision on appeal, which we incorporate herein, we concluded in part that the record showed the Applicant was residing in Egypt, and we therefore lacked jurisdiction to adjudicate his citizenship claim. Specifically, section 341(a) of the Act allows the Secretary of DHS to issue a Certificate of Citizenship to qualified persons who are *within the United States*. We also dismissed the appeal after finding that the Applicant had not shown that he was residing in the United States as a lawful permanent resident in the legal and physical custody of his U.S. citizen father before he was 18 years old, as required to satisfy the relevant conditions at section 320 of the Act. Consequently, we found that the Applicant was not eligible for a Certificate of Citizenship under section 320 of the Act.

The Applicant has filed a combined motion to reopen and reconsider our decision, and includes additional evidence.

Because the Applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires*,

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<sup>1</sup> As amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (2000).

24 I&N Dec. 467, 468 (BIA 2008). We will dismiss the motions because the Applicant has not met that burden.

## I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy, and was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3).

## II. ANALYSIS

The issue on motion is whether the Applicant has established that our prior decision to dismiss the appeal was erroneous based on evidence of new facts or an incorrect application of law or policy. We conclude, upon review, that he has established neither scenario.

On motion, the Applicant provides a copy of his 2020 Form I-551 (permanent resident card), his 2020 Maryland driver's license listing his residential address in the United States, and his 2020 IRS Form W-2, Wage and Tax Statement, showing that he lived and worked in Maryland during that year. He continues to claim this same Maryland address on the Form I-290B, Notice of Appeal or Motion, that is currently before us. These documents show, collectively, that the Applicant has been residing and working in the United States since his 2020 admission as a lawful permanent resident. Consequently, the Applicant has overcome the portion of our appellate decision stating that he had not shown he was residing in the United States pursuant to admission as a lawful permanent resident. However, the Applicant has not addressed and overcome our finding that he did not satisfy all of the conditions to derive citizenship under section 320 of the Act from his naturalized U.S. citizen father.

Specifically, we stated in our appellate decision that the Applicant also must show that he was residing in the United States as a lawful permanent resident in the legal and physical custody of his U.S. citizen father before he was 18 years old in 2002, as required by section 320 of the Act. On motion, the Applicant does not claim that he meets this requirement, and instead asks that we consider the evidence that he is now a lawful permanent resident. The permanent resident card that he submits on motion confirms that the Applicant did not obtain lawful permanent resident status prior to his eighteenth birthday in 2002, instead acquiring such status in 2020. Consequently, on motion the Applicant has not shown that our prior decision to dismiss the appeal was erroneous based on evidence of new facts or an incorrect application of law or policy. It remains that the Applicant did not show that he was residing in the United States as a lawful permanent resident in the legal and physical custody of his U.S. citizen father before the age of 18 years, as required by section 320 of the Act conditions. He therefore remains ineligible for a Certificate of Citizenship.

### III. CONCLUSION

The Petitioner has not met his burden of demonstrating that our prior determination was erroneous based on evidence of new facts or an incorrect application of law or policy.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed