



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

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

In Re: 19243772

Date: JAN. 31, 2022

Appeal of Milwaukee, Wisconsin Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her adoptive father under section 320 of the Immigration and Nationality Act (the Act) § 320, 8 U.S.C. § 1431. Section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), and in effect since February 27, 2001, provides that a child who is under the age of 18 years and has at least one U.S. citizen parent will automatically derive citizenship, if the child is residing in the United States in that parent's legal and physical custody pursuant to a lawful admission for permanent residence. Section 320(a)(3) of the Act. Applicants who are claiming derivative citizenship through an adoptive parent or parents must satisfy additional requirements pertaining to adopted children set forth in section 320(b) of the Act.

The Director of the Milwaukee, Wisconsin Field Office denied the Form N-600, concluding that the Applicant was not eligible to derive citizenship because she was over 18 years of age when she was admitted to the United States as a lawful permanent resident.

On appeal, the Applicant does not contest that she was over 18 years old when she immigrated to the United States. She indicates, however, that she met the adoption requirements and was approved for travel to the United States before her 18th birthday, but her adoption was not finalized until after she was 20 years old due to the required home study waiting period.

Because the Applicant was born abroad, she is presumed to be a noncitizen and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008).

Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

The record reflects that the Applicant was born in the Philippines in 1997. In September 2015, at the age of 18 years she was lawfully admitted to the United States for permanent residence in IH4 immigrant classification (child coming to the United States from a Hague Convention country to be adopted). Shortly after her 20th birthday the Applicant was adopted in Minnesota by her U.S. citizen adoptive father and his lawful permanent resident spouse. The Applicant filed the instant Form N-600 indicating that she derived U.S. citizenship from her adoptive father.

We acknowledge the Applicant's statements on appeal about her U.S. travel and adoption delays. However, section 320 of the Act requires that all derivative citizenship conditions, including residence in the United States pursuant to a lawful admission for permanent residence, must be fulfilled before the individual's 18th birthday and does not provide for any exceptions. The Applicant concedes that she does not meet the statutory age requirement, and the evidence in the record confirms that she was admitted to the United States as a lawful permanent resident in September 2015, when she was over 18 years old. Consequently, the Applicant is not eligible to derive U.S. citizenship on that basis alone and we must dismiss her appeal.

Furthermore, although not specifically addressed in the Director's decision the Applicant is ineligible for derivative citizenship on an additional ground, as she does not meet the requirements applicable to adopted children set forth in section 320(b) of the Act. The term "adopted child" for derivative citizenship purposes means a person who has been adopted pursuant to a full, final, and complete adoption, and who also meets the requirements of section 101(b)(1)(E) or (F) of the Act, 8 U.S.C. § 1101(b)(1)(E) or (F). 8 C.F.R. § 320.1. That section mandates, in part that a child must be adopted while under the age of 16 years, and must be in the legal custody of, and reside with the adopting parent or parents for at least two years to derive U.S. citizenship. A determination that a U.S. citizen parent has legal custody in the case of an adopted child is based on the existence of a final adoption decree. *Id.* Here, the Applicant was not adopted until she was 20 years old. As such she also does not meet the age and two-year legal custody conditions mandated under section 320(b) of the Act.

In conclusion, the Applicant has not demonstrated that she satisfied the age requirement under section 320 of the Act, as she did not begin residing in the United States as a lawful permanent resident and was not adopted until she was over 18 years old. She is therefore ineligible for a Certificate of Citizenship and her Form N-600 remains denied.

ORDER: The appeal is dismissed.