



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

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

In Re: 22064680

Date: JULY 5, 2022

Appeal of West Palm Beach, Florida Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he derived U.S. citizenship from his U.S. citizen mother under former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the West Palm Beach, Florida Field Office initially approved the Form N-600, Application for Certificate of Citizenship, after concluding that the Applicant had established his eligibility for issuance of a Certificate of Citizenship under section 320 of the Act, although the Applicant had claimed eligibility under former section 321 of the Act conditions. However, because the Applicant did not appear for a scheduled, required in-person processing appointment, the Director reopened the matter *sua sponte* and denied the Form N-600 based on the Applicant's failure appear for the scheduled appointment.

On appeal, the Applicant claims that he had twice written to U.S. Citizenship and Immigration Services (USCIS) to advise that he was incarcerated and therefore unable to attend his scheduled appointments. He asserts that the Director has been unreasonable and therefore seeks to attend his scheduled oath ceremony through telephone or video conferencing. In the alternative, he requests that USCIS come to his detention facility to administer the oath ceremony.

The record reflects that the Applicant was born in Guyana in 1965 to married foreign national parents, who divorced in 1979. The Applicant was admitted to the United States as a lawful permanent resident in November 1975. The record contains Certificates of Naturalization showing that the Applicant's mother became a naturalized U.S. citizen in June 1982, and the father became a naturalized U.S. citizen in October 1983.

The applicable law for derivative citizenship purposes is "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). The Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended sections 320 and 322 of the Act and repealed section 321 of the Act. The amended provisions of sections 320 of the Act apply to individuals were not yet 18 years old as of February 27, 2001. Because the Applicant had turned 18 years of age in 1983, the Applicant's citizenship claim cannot be considered under the amended provisions of

section 320 of the Act. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Therefore, we withdraw the Director's decision adjudicating the Form N-600 under section 320 of the Act conditions, rather than under former section 321 of the Act conditions.

Former section 321 of the Act was in effect at the time of the critical events potentially giving rise to eligibility in this matter, including the Applicant's mother's naturalization in June 1983 and prior to his eighteenth birthday in 1983, and is therefore applicable in this case.¹ Generally, former section 321 of the Act applies to an individual born outside of the United States to foreign national parents, only one of whom naturalized before the individual turned 18 years of age who meets one of three conditions: (1) the non-naturalized parent is deceased; (2) the U.S. citizen parent has custody over the individual after a legal separation or divorce; or (3) if the individual was born to unmarried parents and is claiming to be a U.S. citizen through a naturalized mother, the father must not have made the individual his legitimate child.

Because the Director did not consider whether the Applicant automatically derived U.S. citizenship under former section 321 of the Act conditions through his mother, we are returning the matter to the Director to determine whether or not the Applicant has satisfied those requirements.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis.

¹ The Immigration and Nationality Act of 1952 repealed the Nationality Act of 1940 in its entirety, and it enacted derivative citizenship provisions, including former section 321 of the Act. Former section 321 of the Act was effective on December 24, 1952, and it applied to individuals who claimed to meet the conditions therein between that date and February 26, 2001.