U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21783511

Date: MAY 17, 2022

Appeal of Nashville, Tennessee Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad, seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her adoptive U.S. citizen father under section 320 of the Immigration and Nationality Act (the Act), 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.

The Director of the Nashville, Tennessee Field Office denied the Form N-600, Application for Certificate of Citizenship, concluding that the record did not establish that the Applicant was eligible for a Certificate of Citizenship because she did not establish, as required, that she was admitted to the United States as a lawful permanent resident (LPR).

On appeal, the Applicant submits additional evidence and reasserts her eligibility for a Certificate of Citizenship as an adopted child of a U.S. citizen parent.

We review the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

As stated, the Applicant is seeking a Certificate of Citizenship on the basis that she derived U.S. citizenship from her U.S. citizen father who she states adopted her in 2021. The record reflects that the Applicant was born in Grenada in [redacted] 2008. She was admitted to the United States as a B-2 nonimmigrant visitor in August 2017. She claims that she travelled with her biological father, was abandoned, and thereafter was adopted by U.S. citizen parents in [redacted] 2021.

In adjudicating the Applicant's derivative citizenship claim, we apply "the law in effect at the time the critical events giving rise to eligibility occurred." *Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005). As the Applicant's birth in 2008 was after the enactment of the CCA, we consider

her citizenship claim under current section 320 of the Act, as amended by the CCA and in effect since 2001.

Section 320 of the Act provides that:

> (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
>
> (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
>
> (2) The child is under the age of eighteen years.
>
> (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

See also 8 C.F.R. § 320.2. Because the claimed parent-child relationship between the Applicant and her U.S. citizen parents was created by adoption, the Applicant here must also satisfy the requirements for an adopted child under section 320(b) of the Act.

As 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). Under the preponderance of the evidence standard, the Applicant must demonstrate that her claim is "probably true," or "more likely than not" true, based on the specific facts of the case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Applicant, who is under 18 years of age, asserts on appeal that she derived U.S. citizenship after birth under section 320 of the Act through her adoption by her U.S. citizen father. However, as stated, to derive U.S. citizenship after birth, the Applicant must show, among other requirements, that while under the age of 18, she is residing in her U.S. citizen parent's physical and legal custody "pursuant to a lawful admission for permanent residence," which she has not demonstrated. Section 320(a)(3) of the Act.[1]

For purposes of derivative citizenship, the term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Section 101(a)(20) of the Act, 8 U.S.C. § 1101(a)(20). Accordingly, a noncitizen must have been admitted to

[1] Because our finding here that the Applicant did not establish that she was admitted to the United States as an LPR is dispositive of her appeal, we decline to reach and hereby reserve the issue of whether she has also satisfied the derivative citizenship requirements applicable to adopted children under section 320(b) of the Act. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

the United States as an LPR while under the age of 18 to derive U.S. citizenship from a U.S. citizen parent under section 320 of the Act. The Applicant does not claim or submit evidence that she was lawfully accorded the privilege of residing in the United States permanently as an immigrant. *See* 8 C.F.R. § 320.3(b)(1)(vii) (providing that the supporting evidence to establish derivative U.S. citizenship must include a copy of Permanent Resident Card/Alien Registration Receipt Card or other evidence of lawful permanent resident status (e.g. I-551 stamp in a valid foreign passport or in a travel document issued by U.S. Citizenship and Immigration Services (USCIS))); *see also* Instructions for Form N-600, https://www.uscis.gov/n-600 (providing that applicants claiming U.S. citizenship after birth through a U.S. citizen parent must submit a copy of their Permanent Resident Card or other evidence of permanent resident status). Likewise, USCIS records do not indicate that the Applicant was ever admitted to the United States as an LPR.

We acknowledge the Applicant's arguments on appeal that the fact that she was adopted by two U.S. citizen parents, has no other family or any legal or familial ties to the country of birth, and is not responsible for having overstayed her nonimmigrant visa as a minor, is sufficient grounds to establish that she derived U.S. citizenship through her adoptive parents. However, a person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 884 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; *see also United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it . . . they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the... applicant to show [] eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967). Accordingly, we cannot disregard the statutory conditions for establishing derivative citizenship under section 320 of the Act, including the requirement that applicants establish that they are residing in the United States pursuant to lawful admission for permanent residence, which the record here does not show.

Consequently, as the Applicant has not shown that she is residing in the United States pursuant to an admission as an LPR as required by section 320(a)(3) of the Act for derivative citizenship, she is ineligible for a Certificate of Citizenship. For this reason, we must dismiss the Applicant's appeal. The dismissal is without prejudice to filing a motion to reopen these proceedings if the Applicant obtains LPR status in the United States before she turns 18 years of age. *See* 8 C.F.R. § 320.5(c) (providing that an applicant may file a motion to reopen or reconsider their Form N-600 that has been denied and for which the appeal period expired, as USCIS will reject any subsequent Form N-600 by the same applicant).

ORDER: The appeal is dismissed.