



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

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

In Re: 24369006

Date: OCT. 31, 2022

Appeal of Los Angeles, California Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship from his mother under section 309(c) of the Act, 8 U.S.C. § 1409(c).

The Director of the Los Angeles, California Field Office denied the Form N-600, Application for Certificate of Citizenship (Form N-600), concluding that the Applicant did not provide sufficient evidence to establish that his mother was the U.S. citizen he had named on the Form N-600. The Director also concluded that the Applicant had not shown that the claimed U.S. citizen parent was physically present in the United States for a continuous period of at least one year prior to the Applicant's birth, as required by the statute. The matter is now before us on appeal.

On appeal, the Applicant asserts that he has shown by a preponderance of the evidence that he acquired U.S. citizenship through a U.S. citizen mother, and includes additional evidence on appeal.

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

**I. LAW**

Birth certificate evidence shows that the Applicant was born in Brazil in  1978. According to the Applicant, he was born out of wedlock to a Brazilian father and a U.S. citizen mother. Consequently, the Applicant seeks to establish that he has acquired U.S. citizenship solely through his mother.

The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth. *See Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). As the Applicant claims that he was born out of wedlock to a U.S. citizen mother in Brazil in  1978, his citizenship claim falls within the provisions of section 309(c) of the Act, which provides, in pertinent part:

[A] person born, after December 23, 1952, outside the United States and out of wedlock, shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth,

and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

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. *Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008). The “preponderance of the evidence” standard requires that the record demonstrate that the Applicant’s claim is “probably true,” based on the specific facts of his case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

To establish acquisition of U.S. citizenship through a U.S. citizen mother as a child born out of wedlock under section 309(c) of the Act, the Applicant first must show that, at the time of his birth in [REDACTED] 1978, his mother: (1) was a U.S. citizen; (2) was not married; and (3) had been previously physically present in the United States for a continuous period of at least one year.

The first issue before us is whether the Applicant has shown that he has a U.S. citizen mother through whom he can claim to have acquired U.S. citizenship. The Applicant stated on his Form N-600 that his mother was a U.S. citizen named F-C-T- who was born in California in [REDACTED] 1961. As evidence in support of the Form N-600, the Applicant included a birth certificate showing that he was born in Brazil in [REDACTED] 1978 to F-C-T- and a father named F-R-S-; however, the birth certificate was issued in 2017 and stated that the name of the mother had been altered to F-C-T- based on a court order. The Applicant also provided a copy of his 2015 marriage certificate, which listed his mother as M-de L-C-.

In January 2022, the Director issued a notice seeking additional evidence, including a copy of the Applicant’s original, unaltered birth certificate, an explanation from the Applicant as to why his mother’s name was changed on his birth certificate, the results of a DNA test to establish that he was the biological child of F-C-T-, evidence that F-C-T- had at least one year of continuous physical presence in the United States prior to the Applicant’s birth, a complete copy of the Brazilian passport that the Applicant had used to enter the United States, and certain identification documents. In response, the Applicant provided a partial copy of his Brazilian passport, a copy of his California driver’s license, U.S. social security card, his Brazilian consular identification card. The Applicant asserted that he was in the process of obtaining some of the requested evidence from competent authorities and that the remainder of his Brazilian passport had been destroyed in a fire. The Director denied the Form N-600, concluding that the Applicant had not shown that his mother was a U.S. citizen named F-C-T- and that his claimed U.S. citizen mother had resided in the United States for at least one continuous year prior to the Applicant’s birth.

On appeal, the Applicant asserts that F-C-T- is his biological mother and that M-de L-C-, listed as his mother on his marriage certificate, is his foster mother. He includes the results from a May 2022 DNA test that, he claims, confirms that F-C-T- is his biological mother. He also provides a copy of a December 2021 filing in Brazil titled Rectification of a Civil Registry Entry, in which he sought to have F-C-T- added to his birth registry, and the subsequent January 2022 court order stating that F-C-T- had given birth to the Applicant in 1978 and that his foster mother, M-de L-C-, had registered the Applicant’s birth. The January 2022 court order also granted the Applicant’s request to change

the name of his mother on his birth registration from M-de L-C- to F-C-T-. Finally, the Applicant includes an amended birth certificate issued in January 2022 that names both M-de L-C- and F-C-T- as his mothers.

As correctly observed in the Director's decision, the Applicant's record below does not show that the Applicant's biological mother is F-C-T-. The Applicant's own 2015 marriage certificate showed that he listed M-de L-C- as his mother, and he did not provide evidence indicating that he was claiming F-C-T- as a biological mother until he amended his birth certificate in 2017 through a court order. Consequently, the Applicant's documents reflected that his mother was M-de L-C- until at least 1978 until 2017.

On appeal, the Applicant provides a May 2022 DNA Test Report that he claims shows F-C-T- is his biological parent.<sup>1</sup> Although the May 2022 DNA Test Report states that there is a greater than 99% probability that an individual with the Applicant's name is the biological child of an individual identified as "F-T-," there is no information explaining what identification documents, if any, the DNA testing company had reviewed to verify the identities of the donors of the DNA materials. Therefore, this document is not sufficient to overcome the discrepancies in the record regarding the Applicant's parentage and satisfy his burden to show that he is the biological child of F-C-T-.

The Applicant also includes copies of a certificate of baptism and an [ ] 1978 medical record, both of which name him and reflect that his mother's name was F-C-T-, and court documents from Brazil showing that he added F-C-T- to his birth certificate in 2022. However, as stated, his previously-submitted evidence includes a marriage certificate reflecting that he had claimed that M-de L-C- was his mother as recently as 2015. Moreover, the Applicant's administrative record includes two additional birth certificates that he had provided in support of other benefit requests, both of which contain information that contradicts his claim in this proceeding that F-C-T- is his biological mother. Specifically, a Brazilian birth certificate that he had submitted to support a 2016 Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, shows that his mother is M-de L-C- and that his father is F-R-S-. Other records related to the Applicant's removal proceedings reflect additional inconsistencies relating to his parentage, including: (1) a 2019 Form I-877, Record of Sworn Statement, in which the Applicant attested that his father is a U.S. citizen named J-F-R- and that his mother is M-de L-C-; (2) a 2019 statement from M-de L-C-, in which she asserts that she is the Applicant's biological mother; and (3) a Brazilian birth certificate reflecting that J-F-R and M-de L-C- are the Applicant's parents. As these multiple birth certificates and parentage claims are in conflict with each other, the Applicant must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Consequently, in the face of contradictory evidence in the Applicant's record and his own inconsistent claims regarding the identity of his biological mother (and father), the Applicant's certificate of baptism and the medical document are not sufficient to establish that F-C-T- is the Applicant's biological mother.

Finally, the Applicant's evidence regarding the identity of his mother contains other contradictions such that we cannot conclude that F-C-T- is in fact his biological mother, as he claims in this

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<sup>1</sup> We note that the January 2022 court order states that F-C-T- was to be added to the Applicant's birth records based in part on a DNA test result establishing their parent-child relationship. However, the Applicant did not provide this earlier DNA test result to USCIS, despite the Director's specific request for such a document in the January 2022 notice.

proceeding. For example, on the Form N-600, the Applicant claimed that F-C-T- had resided in the United States for the following periods of time (including the relevant period for establishing her physical presence prior to his [ ] 1978 birth in Brazil): 09/11/1961 – 10/02/1975, 01/10/1976 – 11/02/1976, 08/10/1978 – 05/10/1988, 05/20/1988 – 09/14/2020. Similarly, a September 2020 U.S. Department of State (State Department) Form DS-5507, Affidavit of Physical Presence or Residence, Parentage, and Support, shows that an individual who claimed to be F-C-T- attested before a U.S. consular office in Brazil that she had resided in [ ] California during the same periods listed on the Form N-600.

Despite the Applicant's claims on the Form N-600 and the assertions on the State Department Form DS-5507, F-C-T-'s school transcript appears to show that she was attending high school in [ ] [ ] when the Applicant claimed F-C-T- was not living in the United States. Specifically, the transcript includes handwritten notes listing F-C-T-'s classes and school grades in a [ ] High School during the 1976 – 1977 and 1977 – 1978 academic school years, even though the Applicant and F-C-T- both stated that F-C-T- was not in the United States from November 1976 to August 1978, a period of nearly two years that included the Applicant's birth in Brazil in [ ] 1978. Since the Applicant's own evidence appears to show that F-C-T- was attending school in [ ] during the period that the Applicant claimed she was outside the United States (including the day of his birth in Brazil in [ ] 1978), based on this and the previously-discussed inconsistencies in the Applicant's claims regarding the identity of his biological mother, we cannot conclude that the Applicant's mother is F-C-T-. Consequently, the Applicant has not that he has a U.S. citizen mother through whom he can claim to have acquired U.S. citizenship under section 309(c) of the Act.

As this basis for denial is dispositive of the Applicant's appeal, we decline to reach and hereby reserve the issues as to whether the Applicant has separately shown that he has a U.S. citizen mother who was physically present in the United States for a continuous period of at least one year prior to the Applicant's birth, a separate section 309(c) of the Act requirement. *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).

#### IV. CONCLUSION

In view of the above, the Applicant has not demonstrated that he has a U.S. citizen mother through whom he acquired U.S. citizenship pursuant to section 309(c) of the Act.

**ORDER:** The appeal is dismissed.