



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

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

In Re: 27779801

Date: AUG. 31, 2023

Appeal of Hartford, Connecticut 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 parent under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the Hartford, Connecticut Field Office denied the application, concluding that the Applicant had not established his eligibility for issuance of a Certificate of Citizenship under section 320 of the Act because of his repeated failure to appear for scheduled required in-person processing appointments. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The record reflects that the Applicant was born in Italy in 1997, to unmarried foreign national parents.¹ The Applicant was admitted to the United States as a lawful permanent resident in 2002. The record contains a Certificate of Naturalization showing that the Applicant's mother became a naturalized U.S. citizen in February 2010, when the Applicant was still under the age of 18 years. The record does not reflect that the Applicant's father became a naturalized U.S. citizen; therefore, the Applicant seeks a Certificate of Citizenship solely through his U.S. citizen mother.

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). Here, section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), applies to the Applicant's derivative citizenship claim, as he was under the age of 18 years on the effective date of that provision.²

Section 320 of the Act provides, in pertinent part, that a child born outside of the United States automatically becomes a citizen of the United States when at least one parent of the child is a U.S. citizen through birth or naturalization, and the child is under the age of 18 years and residing in the

¹ The Applicant's mother married the Applicant's stepfather in 1999.

² 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Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended former sections 320 and 322 of the Act, and repealed former section 321 of the Act. The provisions of the CCA are not retroactive, and the amended provisions apply only to individuals, such as the Applicant, who were not yet 18 years old as of February 27, 2001.

United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

The Director denied the Form N-600, stating that “[b]ased on a review of your application, supporting documentation, and information in the record, USCIS has found that you are not eligible for a Certificate of Citizenship under section 320 of the Act.” However, the Director’s analysis of the record cites only to the Applicant’s failure to appear for scheduled in-person appointments.

With respect to scheduled appearances for in-person appointments for processing, the regulation at 8 C.F.R. §103.2(b)(13)(ii) provides that if an applicant does not appear for a scheduled biometrics capture, an interview, or other in-person process the benefit request can be denied. However, we note that the record contains a copy of a valid U.S. passport that appears to have been issued to the Applicant in December 2016. In *Matter of Villanueva*, 19 I&N Dec. 101, 103 (BIA 1984), the Board held that a valid U.S. passport is conclusive proof of U.S. citizenship and cannot be collaterally attacked.

As the U.S. Department of State issued the Applicant a valid U.S. passport, we are returning the matter to the Director to consider this evidence anew, and, if necessary, attempt to schedule one more biometrics or in person process appointment, as appropriate.

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