



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

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

In Re: 29665850

Date: DEC. 19, 2023

Appeal of Brooklyn, New York Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her father under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431. Section 320 of the Act provides, in relevant part, that to derive U.S. citizenship a child born abroad must be under 18 years of age, have at least one U.S. citizen parent, and reside in the United States in that parent's legal and physical custody pursuant to a lawful admission for permanent residence.

The Director of the Brooklyn, New York Field Office denied the Form N-600, stating generally that based on the review of the application, supporting documentation and information in the record, the Applicant was not eligible for a Certificate of Citizenship under section 320 of the Act.

On appeal, the Applicant submits additional evidence.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

The record reflects that the Applicant, who was born abroad to married noncitizen parents in 2018, was admitted to the United States as a lawful permanent resident in 2021. Her father naturalized as a U.S. citizen in May 2022, when the Applicant was four years old. Shortly thereafter the Applicant filed the instant Form N-600 indicating that she and her parents were residing at the same address in New York. The Director issued a notice of continuance, asking the Applicant to provide evidence of her father's physical and legal custody, including bills, mail, or government correspondence listing a residential address; federal tax returns, rent or mortgage payments, school records, or other relevant documentation.

In response, the Applicant submitted copies of her father's 2021-2022 employment records listing his New York address, a letter from a daycare provider confirming that the Applicant was residing at the same address, and a copy of correspondence the U.S. Department of State New York Passport Agency mailed to her at that address.

As stated, the Director denied the application indicating that the evidence was not sufficient to establish eligibility.¹

To overcome the Director's adverse determination, the Applicant submits a copy of the New York lease agreement her parents signed in 2022, as well as transcripts of the 2022-2023 federal income tax returns they jointly filed as a married couple, on which the Applicant is included as their dependent household member.

This documentation points to the Applicant's residence in New York with her parents who are married to each other and living together in marital union.² Because the record does not indicate that the Director reviewed this supplemental evidence before forwarding the appeal to our office, we will return the matter for the Director to consider it in the first instance, to determine whether the Applicant meets all the relevant eligibility criteria for derivative citizenship, and to enter a new decision, accordingly.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ The Director did not explain in the specific ground or grounds of the Applicant's ineligibility for the benefit sought. *See* 8 C.F.R. § 103.3(a)(1)(i) (providing, in relevant part, that when a Service officer denies an application or petition filed under § 103.2 of this part, the officer shall explain in writing the specific reasons for denial).

² A U.S. citizen parent is presumed to have legal custody of a child, absent evidence to the contrary, in the case of a biological child who resides with both natural parents who are married to each other, living in marital union, and not separated. 8 C.F.R. § 320.1(i).