



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

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

In Re: 24249172

Date: FEB. 2, 2022

Appeal of Chatsworth, California Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from a U.S. citizen parent under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the Chatsworth, California Field Office denied the application, concluding that the record did not establish that the Applicant was residing in the United States in the legal and physical custody of a U.S. citizen parent. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 dismiss the appeal.

I. LAW

The Applicant was born in Jordan in [] 2001, to married foreign national parents. Her mother subsequently naturalized in October 2012, and the Applicant adjusted her status to that of a lawful permanent resident in 2014.

To determine if the Applicant derived U.S. citizenship from her mother, 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). The last critical event in this case is the Applicant’s adjustment of status to that of a lawful permanent resident in 2014. We therefore consider the Applicant’s derivative citizenship claim under section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), and in effect since 2001. Section 320(a) 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 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.

Moreover, the Applicant must meet the definition of a “child” in section 101(c)(1) of the Act, 8 U.S.C. § 1101(c)(1), which requires, in pertinent part, that during the relevant timeframe she must be an unmarried person under twenty-one years of age.

Because the Applicant was born abroad, she is presumed to be a foreign national and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008).

II. ANALYSIS

The Applicant has established that she meets several conditions for derivative citizenship under section 320 of the Act. Specifically, her 2001 Jordanian birth certificate and her mother’s October 2012 Certificate of Naturalization and U.S. passport collectively show that the Applicant was born outside of the United States and has a U.S. citizen parent who naturalized while the Petitioner was still under the age of 18, consistent with the conditions at sections 320(a)(1) and (2) of the Act. However, the Applicant has not shown that she met the residing in the United States in the legal and physical custody of her U.S. citizen parent pursuant to admission as a lawful permanent resident conditions at section 320(a)(3) of the Act.

Under the Act, “[t]he term ‘residence’ means the place of general abode; the place of general abode of a person means the principal, actual dwelling place in fact, without regard to intent.” Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33).

The record before the Director did not show that the Applicant was residing in the United States in the legal and physical custody of her U.S. citizen parent before the Applicant’s eighteenth birthday. On the Form N-600, the Applicant listed a U.S. mailing address but separately indicated that her physical address and that of her mother was in Jordan at the time of filing the Form N-600 in March 2022. She also claimed that her mother had various, brief periods of physical residence in the United States from 2011 to 2016. However, only four of these periods were during the relevant time that began after the mother’s naturalization in October 2012, and they were for approximately one to two months each year. She included Internal Revenue Service Forms 1040, U.S. Individual Tax Return, for the years 2018 to 2020, showing that her parents had claimed their home address was in Jordan during that period; a record of her mother’s entries into and exits from Jordan from approximately 2007 to 2021; and California school records showing that her mother had attended school in the United States in the 1970s and 1980s. However, the school records relate to a period prior to the mother’s 2012 naturalization, the 2018 to 2020 tax records show that the Applicant’s mother was residing outside the United States, and the mother’s Jordanian entry/exit records are a record of her travel in and out of Jordan rather than evidence of where and with whom the mother was residing during those years. Consequently, these documents do not show that the Applicant was residing in the United States in

her mother's legal and physical custody at some point after the mother's 2012 naturalization and prior to the Applicant turning 18 years of age in 2019.

The Applicant's evidence before the Director to establish her own residence in the United States includes her photograph, a copy of her Form I-551 showing that she adjusted her status to that of a lawful permanent resident in 2014, and a copy of her expired U.S. passport. However, these documents do not contain residential information or otherwise show that the Applicant was residing in the United States in the legal and physical custody of her mother at some point after the mother's naturalization in 2012 and prior to the Applicant turning 18 years of age in 2019.

On appeal, the Applicant confirms that she has been and is residing in Jordan and that she is currently enrolled in a university in Jordan. Although she requests that USCIS consider that her parents had chosen to move the family to Jordan and that she, as a child, was not responsible for the decision, it remains that the Applicant's evidence does not show by a preponderance of the evidence that her and her mother's "place of general abode" and "actual dwelling place in fact, without regard to intent" was the United States at some point after the mother's 2012 naturalization and prior to the Applicant turning 18 years of age in 2019. Section 101(a)(33) of the Act. Consequently, the Applicant has not established that she resided in the United States in the legal and physical custody of her U.S. citizen parent as section 320(a)(3) of the Act requires, and therefore is not eligible for a Certificate of Citizenship. For this reason, the Form N-600 remains denied.

ORDER: The appeal is dismissed.