U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24265163

Date: FEB. 16, 2023

Appeal of Helena, Montana Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he derived U.S. citizenship from his U.S. citizen mother under section 320 of the Act, 8 U.S.C. § 1341.

The Director of the Helena, Montana Field Office denied the application, concluding that the Applicant's evidence did not show that he was under the age of 18 years when his mother naturalized in 2008, as section 320 of the Act requires. The Applicant filed a motion to reopen and reconsider. The Director denied the combined motion, fully addressing the Applicant's evidence and concluding that the filing did not meet the requirements of either a motion to reopen or a motion to reconsider. 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 seeks a Certificate of Citizenship indicating that he derived U.S. citizenship from his mother. Prior to the 2020 filing of this application, the record reflected that the Applicant was born in Somalia in [redacted] 1988 to married parents; however, the Applicant at the time of this N-600 filing claimed that after his mother naturalized, he discovered that he was born in [redacted] 1992. He entered the United States as a refugee in September 1998 and was later accorded lawful permanent resident status as of that entry date. The Applicant submitted a Certificate of Naturalization showing his mother became a naturalized U.S. citizen in January 2008. The Applicant claims that his father died in Somalia in 1992. Consequently, the Applicant seeks to establish that he is eligible for a Certificate of Citizenship solely through his U.S. citizen mother.

Section 320 of the Act, as amended by the CCA, provides, in pertinent part, 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.

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. *See 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. *See Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Director denied the Applicant's Form N-600 and subsequent motion to reopen and reconsider, concluding that the Applicant had not shown that his date of birth was in [redacted] 1992 and that he therefore had been under 18 years of age at the time of his mother's January 2008 naturalization, as claimed. Instead, the Director determined that the evidence in the Applicant's administrative record shows that he was born in [redacted] 1988, and therefore did not show that he was under the age of 18 years when his mother naturalized in 2008, as section 320 of the Act requires. In denying the Applicant's combined motion, the Director considered all of the relevant evidence and fully addressed the inconsistencies in the Applicant's evidence. For example, the Director noted that although the Applicant provided a 2021 police report and 2021 medical records to show that his date of birth was [redacted] 1992, the police report also reported his [redacted] 1988 date of birth and his medical records reported his age as 33 years (consistent with a [redacted] 1988 date of birth), when it should have been 29 years if his date of birth was in [redacted] 1992. In addition to discussing numerous other internal inconsistencies regarding his age and date of birth, the Director noted that the Applicant's school records in the United States, U.S. criminal history records, and U.S. immigration records, dating from his 1998 entry into the United States as a refugee until at least July 2018 when he filed his Form I-918, Petition for U Nonimmigrant Status, show that the Applicant has continuously claimed to have a date of birth in [redacted] 1988 prior to the filing of his Form N-600 in 2020.

On appeal, the Applicant provides a letter asserting that: (1) he meets the conditions at section 320 of the Act; (2) his [redacted] 1988 date of birth is incorrect and his true date of birth is in [redacted] 1992; (3) he has provided sufficient evidence to show that he resided with his U.S. citizen parent prior to turning 18 years of age; and (4) the Director did not fully consider that many Somali refugees have an incorrect [redacted] day of birth. The Applicant also contends that he will submit a brief and additional evidence on appeal; however, as of the date of this decision, nothing further has been received.

Upon de novo review, we adopt and affirm the Director's decision to dismiss the Applicant's motion to reopen and reconsider with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals

in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

The Petitioner's arguments on appeal are not sufficient to establish that his date of birth is actually in [redacted] 1992 and that he was therefore under 18 years of age at the time of his mother's 2008 naturalization, as he claims. In addition to the inconsistencies noted in the Director's decision, the Applicant's claim on appeal to have an [redacted] 1992 date of birth is at odds with his prior, written claims to a U.S. immigration judge during his removal proceedings in 2008. In his written statement to the immigration judge, the Applicant claimed that his father was killed in front of him in Somalia in 1992 when he was just 5 years old, and that scene stuck in his head and has made him angry and rebellious. The Applicant's claim in this Form N-600 proceeding that he was *born* in 1992 cannot be reconciled with his prior claim to an Immigration Judge that he witnessed his father's death *at age five* in 1992. Moreover, although we acknowledge the Applicant's claim that Somali refugees have an incorrect month and day of birth of [redacted] we note that the *year* of his birth is off by several years. Further, as explained, the record shows that the Applicant has continuously relied on his [redacted] 1988 date of birth before filing this Form N-600, including in his 2008 proceedings before the Immigration Court.

The Applicant has not shown by a preponderance of the evidence that his date of birth is in [redacted] 1992. Instead, the record before us reflects that his date of birth is in [redacted] 1988, and therefore the Applicant turned 18 years of age in [redacted] 2006 before his mother became a naturalized U.S. citizen until 2008. Consequently, the Applicant has not shown that he was under 18 years of age at the time of his mother's naturalization, as required by section 320 of the Act.

III. CONCLUSION

The Applicant has not shown that he derived citizenship under section 320 of the Act as he has not established that he satisfied all of the section 320 of the Act conditions for a Certificate of Citizenship before his eighteenth birthday in [redacted] 2006. As such, the Applicant is ineligible for a Certificate of Citizenship and his Form N-600 remains denied.

ORDER: The appeal is dismissed.