



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

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

In Re: 23709054

Date: FEB. 22, 2023

Appeal of Los Angeles County, California Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant, who was born abroad in 1990 seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship at birth from his biological mother pursuant to section 309(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1409(c).

The Director of the Los Angeles County, California Field Office denied the application, concluding that the Applicant did not provide sufficient information to determine whether he was legally adopted after birth and, as he was residing outside of the United States U.S. Citizenship and Immigration Services (USCIS) was without jurisdiction to adjudicate his citizenship claim. 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

The Applicant asserts that the Director erred in denying his citizenship claim for lack of jurisdiction because according to the USCIS policy "[t]here is nothing precluding USCIS from accepting a Form N-600 filed under[section 309(c) of the Act] by a person who does not live in the United States,"¹ and the USCIS online filing instructions² specifically include a Form N-600 mailing address for applicants who reside outside of the United States. The Applicant also points out that the Director failed to address the merits of his citizenship claim, finding instead that the evidence was insufficient to determine whether he was adopted *after birth*, without explaining the relevancy of such evidence to his claim of U.S. citizenship acquisition *at birth*.

As an initial matter, because the record reflects that the Applicant was living in the United Kingdom when he filed the instant Form N-600, and the record on appeal indicates that he continues to live there, jurisdiction to adjudicate his U.S. citizenship claim is currently with the U.S. Department of

¹ See generally 12 USCIS Policy Manual H.3(D), n. 42, <https://www.uscis.gov/policy-manual>.

² See N-600, Application for Certificate of Citizenship, *Where to File*, <https://www.uscis.gov/n-600>.

State.³ Although USCIS may accept a Form N-600 filed by an individual who resides outside of the United States, it may issue a Certificate of Citizenship only “[u]pon proof to the satisfaction of the [Secretary of Homeland Security] that the applicant is a citizen . . . and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required . . . *only if such individual is at the time within the United States.*” Section 341(a) of the Act, 8 U.S.C. §1452(a) (emphasis added). Accordingly, while USCIS may conduct a preliminary review of a Form N-600 and supporting evidence submitted by an applicant residing overseas, it has no authority to complete adjudication of the Form N-600 and issue a Certificate of Citizenship unless (1) the applicant meets their burden of proof to establish the claimed U.S. citizenship, and (2) is present in the United States to take the oath of allegiance.

The Applicant is claiming acquisition of U.S. citizenship through his mother (now deceased), under section 309(c) of the Act. To establish acquisition of U.S. citizenship under that section, the Applicant must show that he was born out of wedlock, that his mother had the nationality of the United States at the time of his birth, and that she had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year before his birth in 1990.

An application for a certificate of citizenship by a person who claims, in part to have acquired United States citizenship under section 309(c) of the Act must be submitted on the form designated by USCIS with the prescribed fee and in accordance with the instructions on the form. 8 C.F.R. § 341.1.

With his Form N-600 the Applicant submitted his mother’s U.S. birth certificate, his own foreign birth and hospital records,⁴ and his mother’s 1979-1980 college transcript to show that she satisfied the prior one year continuous physical presence condition in section 309(c) of the Act. This initial supporting documentation complies with the Form N-600 instructions which provide that the required evidence must include, in relevant part an applicant’s birth certificate, birth certificate or record of the applicant’s U.S. citizen parent, and proof of the parent’s prior residence or physical presence in the United States. *See Instructions for Form N-600*, pages 8-9, <https://www.uscis.gov/n-600>.

If the evidence initially submitted does not establish eligibility, USCIS may in its discretion deny the benefit request for ineligibility, ask for more information or evidence from the applicant, or notify the applicant of its intent to deny the benefit request and the basis for the proposed denial. 8 C.F.R. § 103.2(b)(8).

Here, in denying the Applicant’s Form N-600 the Director did not explain why the evidence initially submitted was insufficient to establish that the Applicant acquired U.S. citizenship at birth from his mother under section 309(c) of the Act, as he had claimed. *See* 8 C.F.R. § 103.3(a) (providing in relevant part that when a USCIS officer denies an application or petition, the officer shall explain in

³ A citizenship claim made by an individual physically present outside of the United States may only be properly made before the U.S. Department of State (DOS) through a consular officer. *See* Section 104(a) of the Act, 8 U.S.C. § 1104(a) (stating, in pertinent part, that the “Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to . . . (3) the determination of nationality of a person not in the United States”); *see also* 22 C.F.R. § 50.2 (providing that DOS “[s]hall determine claims to United States nationality, when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America. . . .”)

⁴ We note that the Applicant submitted only the English translation of the document without its foreign language version.

writing the specific reasons for the denial). Nor did the Director explain the relevance of the Applicant's adoption to his citizenship claim based on a biological relationship with his U.S. citizen mother.⁵

In view of the above, we will return the matter to the Director to again review the evidence, to determine whether it is sufficient to support the Applicant's U.S. citizenship claim, and to enter a new decision accordingly. The Director may request, as a matter of discretion any additional information and documents deemed necessary to make this determination. If the Director concludes that the preponderance of the evidence is inadequate to establish that the Applicant acquired U.S. citizenship at birth from his mother under section 309(c) of the Act, the Director shall explain the specific reasons for this conclusion in the new decision. Conversely, if the Director determines that the Applicant appears eligible for issuance of a Certificate of Citizenship, the Director shall communicate with the Applicant to schedule an in-person interview before a USCIS officer. If the Applicant elects to come to the United States for the interview, the Director shall complete adjudication of the Applicant's U.S. citizenship claim on the merits while the Applicant is in the United States. If the Applicant declines the opportunity for an interview in the United States, he must pursue his U.S. citizenship claim before the U.S. Department of State.

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

⁵ The Applicant indicated in Part 2 of his Form N-600 that he was *not* adopted. The Form N-600 instructions provide that a copy of full, final adoption decree is only required for adopted applicants.