



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

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

In Re: 23478002

Date: JAN. 6, 2023

Appeal of New York City, New York Field Office Decision

Form N-600K, Application for a Certificate of Citizenship Under Section 322

The Applicant's naturalized U.S. citizen grandmother¹ seeks a Certificate of Citizenship on the Applicant's behalf under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The Director of the New York City, New York Field Office denied the application, concluding that the record did not establish that either the Applicant's U.S. citizen grandmother or grandfather had the five-year physical presence in the United States required under section 322 of the Act. The matter is now before us on appeal. 8 C.F.R. § 103.3. The Applicant submits additional evidence and reasserts eligibility.

Because the Applicant was born abroad, she is presumed to be a noncitizen and bears the burden of establishing eligibility for a Certificate of Citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). Upon de novo review, we will dismiss the appeal. The Applicant is over 18 years of age and statutorily ineligible for a Certificate of Citizenship under section 322 of the Act.

Section 322 of the Act, as amended by the Child Citizenship Act (CCA) of 2000 (Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000)), applies to children of U.S. citizens born and residing outside of the United States.

Section 322(a) of the Act provides, in relevant part that a parent who is a citizen of the United States may apply for naturalization on behalf of a child born outside of the United States, and the Secretary of Homeland Security shall issue a certificate of citizenship to such applicant upon proof, that the applicant meets all of the conditions in that section, which include the requirement of being "under the age of 18 years" in section 322(a)(3) of the Act.

¹ Although the Applicant's grandmother signed the Form N-600K, the record reflects the Applicant's U.S. citizen mother is living. The filing was therefore improper, as Form N-600K may not be filed by any person other than a U.S. citizen parent of the child, unless that parent has died. *See* 8 C.F.R. § 322.3(a) (providing that a U.S. citizen grandparent citizen may submit the application only if the child's U.S. citizen parent is deceased); *see also* Instructions for Form N-600K, <https://www.uscis.gov/n-600k>. Nevertheless, because U.S. Citizenship and Immigration Services accepted the instant Form N-600K for processing, we will consider the application on appeal.

The record in this case reflects that in [] 2021, when the Applicant was 17 years and 7 months old, her U.S. citizen grandmother filed the instant Form N-600K to obtain a Certificate of Citizenship on the Applicant's behalf. The Director found the initial supporting documentation inadequate to establish the grandmother's five-year physical presence in the United States and requested additional evidence. The grandmother responded, but the Director determined that the record was still insufficient to show that she was physically present in the United States for the requisite five-year period and denied the application. Two weeks after her 18th birthday, the Applicant filed the instant appeal with additional documents to show her grandparents' prior physical presence in the United States and to overcome the reason for the denial.

Unfortunately, because the Applicant is now over the age limit set forth in section 322(a)(3) of the Act, she is statutorily ineligible for issuance of a Certificate of Citizenship regardless of whether she may have once met the remaining requirements of section 322 of the Act. As the Applicant is ineligible for issuance of a Certificate of Citizenship on that basis alone, we need not address if the additional documents she submits on appeal are sufficient to show that one of her U.S. citizen grandparents had qualifying physical presence in the United States, or if she satisfies the remaining conditions in section 322 of the Act, including residence abroad in her U.S. citizen mother's legal and physical custody, and temporary presence in the United States pursuant to a lawful admission. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Applicant is not eligible for issuance of a Certificate of Citizenship under section 322 of the Act because she is over 18 years old. Her Form N-600K will therefore remain denied.

ORDER: The appeal is dismissed.