



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

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

In Re: 27444681

Date: JULY 13, 2023

Appeal of San Diego Field Office Decision

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

The Applicant's adoptive father 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. 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.

If the parent-child relationship was created through adoption, the child must satisfy the additional requirements applicable to adopted children in section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1), which defines the term "child," in pertinent part as "a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years." Sections 322(b) and 101(b)(1)(E)(i) of the Act; 8 C.F.R. 322.1.

The Director of the San Diego, California Field Office denied the application, concluding that the record did not establish that the Applicant qualified as her father's "adopted child," for purposes of naturalization under section 322 of the Act, because she was over the age of 16 years at the time of adoption. The matter is now before us on appeal.

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.

The Applicant's father does not contest that the Applicant, who was born in [] 2004, was over 16 years of age when he adopted her in [] 2020. Instead, he explains that although he initiated the adoption process when the Applicant was 14 years old, he was unable to complete it before her 16th birthday because of the COVID-19 pandemic restrictions that caused temporary closing of the Mexican court where his petition for adoption was pending and thus delayed the issuance of a final judgement in the case. In support, the father submits a letter from the attorney who represented him

in the adoption proceedings, and renews his request for issuance of a Certificate of Citizenship on the Applicant's behalf.

We acknowledge the father's explanation and recognize that he was not able to finalize the adoption before the Applicant's 16th birthday due to circumstances beyond his control. However, a person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988).

Here, sections 322(b) and 101(b)(1)(E)(i) of the Act require a child to be adopted while under the age of 16 years,¹ and there is no dispute that the Applicant was over that age at the time she was adopted in [] 2020. As such, she does not meet the definition of an "adopted child" for purposes of citizenship under section 322 of the Act, and we therefore cannot grant her father's request.²

Lastly, because the Applicant is now over 18 years old, she also does not meet the age limit set forth in section 322(a)(3) of the Act, and is ineligible for a Certificate of Citizenship on this additional basis.

Consequently, as the Applicant is not eligible for the benefit her father is seeking on her behalf, the Form N-600K will remain denied.

ORDER: The appeal is dismissed.

¹ Section 101(b)(1)(E)(ii) of the Act provides an exception for a natural sibling of an adopted child, who was adopted while under the age of 18 years. However, there is nothing in the record to suggest that the Applicant qualifies for the sibling exception.

² Although not specifically addressed in the Director's decision, we note that all of the conditions in section 322, including the U.S. citizen parent's two-year legal custody over an adopted child, must be met before the child turns 18 years of age. A determination that a U.S. citizen adoptive parent has legal custody is based on the existence of a final adoption decree. 8 C.F.R. § 322.1. Here, because the Applicant was adopted in [] 2020, less than two years before her 18th birthday in [] 2022, she cannot satisfy the two-year legal custody requirement applicable to adopted children.