



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

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

In Re: 27444879

Date: JULY 19, 2023

Appeal of Newark, New Jersey Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad in 1946 filed the instant Form N-600 indicating that she has been a lawful permanent resident of the United States for five years, and wished to become a U.S. citizen.

The Director of the Newark, New Jersey Field Office evaluated the application under current section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, which provides for derivative citizenship of children who have at least one U.S. citizen parent and are residing in the United States as lawful permanent residents in that parent's legal and physical custody while under the age of 18 years.¹ The Director denied the Form N-600, concluding that the Applicant was ineligible for a Certificate of Citizenship under section 320 of the Act, because she was over 18 years old in 2016 when she was admitted to the United States as a lawful permanent resident. The matter is now before us on appeal.

On appeal, the Applicant does not dispute that she does not meet the eligibility criteria to derive U.S. citizenship. She only states that she submitted the instant Form N-600 nine days before the fifth anniversary of becoming a lawful permanent resident.

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.

As an initial matter, Form N-600 is for individuals who (1) are requesting a Certificate of Citizenship because they were born outside the United States to a U.S. citizen parent, or (2) are claiming derivative citizenship after birth before they were 18 years old.²

¹ We note that section 320 of the Act, as amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), applies only to individuals who were under the age of 18 years as of February 27, 2001, when that section became effective. *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 156 (BIA 2001). Because the Applicant was 54 years old at the time, she is not eligible for the benefits of current section 320 of the Act, and the Director erred by applying that section of the Act in these proceedings. The error does not affect our de novo review on appeal.

² See Instructions for Form N-600, <https://www.uscis.gov/n-600>.

Although the Applicant filed the instant Form N-600, she does not claim that she falls within either of these two categories. Furthermore, the information in her foreign birth certificate reflects that she was born to noncitizen parents, and she has not submitted evidence that either her mother or father naturalized as a U.S. citizen before her 18th birthday in 1964. Consequently, as there is nothing in the record to indicate that Applicant meets the threshold requirement of having at least one U.S. citizen parent from whom she could either acquire U.S. citizenship at birth or derive U.S. citizenship after birth but before her 18th birthday, she is not eligible for a Certificate of Citizenship.

Rather, as the Applicant indicates that she is seeking to become a U.S. citizen after having resided in the United States for five years, it appears that she intended to file a Form N-400, Application for Naturalization.³

In conclusion, the Applicant has not established eligibility for a Certificate of Citizenship and we must dismiss her appeal. The dismissal is without prejudice to filing a Form N-400, if the Applicant believes she meets the eligibility criteria to naturalize as a U.S. citizen.

ORDER: The appeal is dismissed.

³ Naturalization is an administrative process through which a person born abroad becomes a U.S. citizen after complying with specific substantive and procedural requirements. See N-400, Application for Naturalization, <https://www.uscis.gov/n-400>.