U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25725674

Date: MAY 25, 2023

Appeal of Baltimore, Maryland Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship from a U.S. citizen parent under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the Baltimore, Maryland Field Office initially approved the Form N-600 in 2012. However, because the Applicant, a minor, did not appear for at least three scheduled, required in-person processing appointments, the Director reopened the matter sua sponte and denied the Form N-600 based on the Applicant's failure to appear for a scheduled appointment to take the oath of allegiance. 8 C.F.R. § 320.5(a). The Applicant's U.S. citizen parent subsequently contacted U.S. Citizenship and Immigration Services (USCIS) and stated that the Applicant had not received the prior notices from USCIS because his address had changed. The Director reopened the matter on motion in October 2019 and offered the Applicant a period of 15 days to contact USCIS in order to indicate whether he wished to pursue receiving his Certificate of Citizenship. The Applicant did not respond, and the Director again denied the Form N-600 in May 2021.[1] 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.

The record reflects that the Applicant was born in Great Britain in [redacted] 2007 to married parents. At the time of his birth, his father was a U.S. citizen through his naturalization in April 2007. As the record does not reflect that the Applicant's mother became a naturalized U.S. citizen, the Applicant seeks to establish his eligibility solely through is father. The Applicant was lawfully admitted to the United States in August 2014 as a lawful permanent resident.

[1] We note that the Applicant's father states on appeal that he and the Applicant had been outside the United States for unspecified periods due to "medical and employment reasons." Given the Applicant's multiple failures to appear for a scheduled appearance with USCIS and his father's statement, in any subsequent motion proceeding, the Applicant must show that he satisfies all statutory requirements, including the residing in the United States in the legal and physical custody of the U.S. citizen parent pursuant to a lawful admission for permanent residence conditions in accordance with section 320(a)(3) of the Act.

The applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." *See Minasyan v. Gonzales,* 401 F.3d 1069, 1075 (9th Cir. 2005). Here, section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), applies to the Applicant's derivative citizenship claim, as he was born after the CCA was enacted on February 27, 2001, and his father also became a U.S. citizen after the provision went into effect.

Section 320 of the Act provides, in pertinent part, that a child born outside of the United States automatically becomes a citizen of the United States when a least one parent of the child is a U.S. citizen through birth or naturalization, and the child is under the age of 18 years and residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

Although the Director initially approved the Form N-600, the application was reopened and denied after the Applicant failed to appear for three scheduled appearances. *See* section 341(a) of the Act (requiring applicants to take an oath of allegiance before a Certificate of Citizenship is furnished); 8 C.F.R. § 341.5(b) (same). With respect to scheduled appearances for in-person appointments for processing, the regulation at 8 C.F.R. §103.2(b)(13)(ii) provides that if an applicant does not appear for a scheduled biometrics capture, an interview, or other in-person process the benefit request can be denied.

On appeal, the Applicant contends, through his father, that he did not believe that he was required to attend the previously scheduled appointments because he was under the age of 14 years when the interviews were scheduled. The Applicant cites to language in a prior appointment notice stating that "children under 14 years of age do not need to be present." However, the notice also states that "the parent or guardian of the child must . . . appear to pick up the certificate." Here, neither the Applicant nor his parent appeared to pick up the Applicant's Certificate of Citizenship at one of the scheduled appearances. When an individual is required to appear for interview but does not, the benefit request generally shall be considered abandoned and denied. 8 C.F.R. § 103.2(b)(13)(ii). Although the Applicant contends that he is now prepared to appear to pick up his Certificate of Citizenship, this does not overcome the Director's decision to deny the Form N-600 based on the Applicant's failed to appear in the past. For this reason, the application remains denied.[2]

ORDER: The appeal is dismissed.

[2] This dismissal is without prejudice to filing a motion to reopen this Form N-600 should the Applicant become available to attend an oath of allegiance ceremony. *See* 8 C.F.R. § 341.5(e) (providing that after an application for a Certificate of Citizenship has been denied and the time for appeal has expired, USCIS will reject a subsequent application submitted by the same individual and the applicant will be instructed to submit a motion to reopen or reconsider in accordance with the regulations at 8 C.F.R. § 103.5).