



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

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

In Re: 29647822

Date: JAN. 4, 2024

Appeal of Newark, New Jersey Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her father under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431. Section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), and in effect since February 27, 2001, provides that a child who is under the age of 18 years and has at least one U.S. citizen parent will automatically derive citizenship, if the child is residing in the United States in that parent's legal and physical custody pursuant to a lawful admission for permanent residence. Section 320(a) of the Act.

The Director of the Newark, New Jersey Field Office denied the application, concluding that the evidence provided by the Applicant did not satisfy the requirements of section 320 of the Act. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant provides additional evidence of her legal custody and current employment.

Because the Applicant was born abroad, she is presumed to be a noncitizen and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). Under the preponderance of the evidence standard, the Applicant must demonstrate that her claim is "probably true," or "more likely than not." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (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 remand the matter to the Director for entry of a new decision.

The Applicant was born in Bolivia and entered the United States as a lawful permanent resident in March 2006 at the age of 13. The Applicant's father, L-S-¹, naturalized in September 2007. The U.S. Department of State issued a passport to the Applicant for the first time in July 2009 and renewed the passport in April 2019. The Applicant submitted her request for a certificate of citizenship in October 2020.

The Director issued a request for evidence seeking additional evidence that the Applicant was in the legal custody of her father at the time of his naturalization. The Applicant responded with school records and a lease agreement. The Director determined that the evidence provided by the Applicant

¹ We use initials to protect the privacy of individuals.

did not meet the requirements for derivative citizenship under section 320 of the Act and denied the application.

On appeal, the Applicant provides additional evidence related to her legal custody at the time of her father's naturalization. While the Director indicated that the evidence provided by the Applicant in response to the request for evidence was insufficient to establish eligibility, they did not provide an analysis of why the submitted evidence was insufficient to meet the requirements for derivation of citizenship. The regulation at 8 C.F.R. § 103.3(a)(1)(i) states that when denying an application, the Director shall explain in writing the specific reasons for denial. Therefore, when denying an application, the Director must fully explain the reasons for denial to allow the Applicant a fair opportunity to contest the decision and provide us an opportunity for meaningful appellate review. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal).

Because the record now includes evidence indicating that there may be other factual circumstances concerning the Applicant's legal custody which the Director has not yet reviewed, the Director has not fully explained the reasons for the Applicant's ineligibility, and because the Applicant has been issued a U.S. passport², we will return the matter for the Director to consider the Applicant's derivative citizenship claim anew.

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

² A valid U.S. passport issued to an individual as a citizen of the United States constitutes conclusive proof of that person's citizenship unless the passport is void on its face. *Matter of Villanueva*, 19 I&N Dec. 101, 103 (BIA 1984).