U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22070183

Date: AUG. 30, 2022

Appeal of Dallas, Texas Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she acquired U.S. citizenship from and was legitimated by her U.S. citizen father under sections 301(g) and 309(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1401(g), 1409(a).

The Director of the Dallas, Texas Field Office denied the Form N-600, Application for Certificate of Citizenship (Form N-600), concluding that the Applicant had not submitted the requested evidence of her eligibility in response to a request for evidence (RFE) to establish that she acquired U.S. citizenship through a U.S. citizen parent.

On appeal, the Applicant claims that she now has evidence that she is the biological child of her U.S. citizen father and submits additional evidence to support her claim.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. 8 C.F.R. § 103.2(b)(1). Upon *de novo* review, we will dismiss the appeal.

I. LAW

The documents provided by the Applicant reflect that she was born in [redacted] 1987 in Panama, and last entered the United States in February 2020 as a nonimmigrant visitor. The Applicant provided a Panamanian birth certificate that does not list a father's name; however, the Applicant claims that her father was a U.S. citizen named A-L-B-.[1] There is no information to indicate that the Applicant's mother is a U.S. citizen. Consequently, the Applicant seeks a certificate of citizenship indicating that she acquired U.S. citizenship at birth solely through her father pursuant to section 301(g) of the Act.

The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth. *See Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). Accordingly, the Applicant's citizenship claim falls within the provisions of section 301 of the Act, which provides, in pertinent part, that the following shall be nationals and citizens at birth:

[1] Name withheld to protect the individual's identity.

> (g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years. . . . [including] any periods of honorable service in the Armed Forces of the United States . . . .

Because the Applicant was born out of wedlock, she must also satisfy the requirements of section 309(a) of the Act, which pertain to legitimation and state, in relevant part:

> The provisions of paragraphs (c), (d), (e), and (g) of section 301 . . . shall apply as of the date of birth to a person born out of wedlock if-
>
> (1) a blood relationship between the person and the father is established by clear and convincing evidence,
>
> (2) the father had the nationality of the United States at the time of the person's birth,
>
> (3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and
>
> (4) while the person is under the age of 18 years-
>
> (A) the person is legitimated under the law of the person's residence or domicile,
>
> (B) the father acknowledges paternity of the person in writing under oath, or
>
> (C) the paternity of the person is established by adjudication of a competent court.

Moreover, because the Applicant was born abroad, she is presumed to be a foreign national and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires,* 24 I&N Dec. 467, 468 (BIA 2008). The "preponderance of the evidence" standard requires that the record demonstrate that the Applicant's claim is "probably true," based on the specific facts of her case. *See Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

As discussed above, in order to acquire citizenship through her father under sections 301(g) and 309(a) of the Act, the Applicant must demonstrate that: she was born to a U.S. citizen father; the father meets the other relationship-related requirements in section 309(a) of the Act; and, prior to the Applicant's birth, the father was physically present in the United States for five years, no less than two of which occurred after the father turned 14 years old.

The Applicant satisfies the out-of-wedlock condition at section 309(a) of the Act in that her birth certificate does not name her father and her mother's statement confirms that the mother and the Applicant's father never married. Moreover, A-L-B-'s 1965 Alabama birth certificate shows that he is a U.S. citizen through his 1965 birth in Alabama, and his school and military records shows that he satisfied the relevant section 301(g) physical presence conditions through at least five years of physical presence in the United States prior to the Applicant's birth, no less than two of which were after A-L-B- had turned 14 years of age. Although the record before the Director did not show that the Applicant was the biological child of A-L-B-, on appeal she provides a copy of genetic test results that are sufficient to show that A-L-B- is her biological father, in addition to a personal statement from A-L-B- attesting that he is the Applicant's father. Consequently, record now shows that the Applicant satisfies the parental citizenship conditions at sections 301(g) and 309(a)(1) and (2) of the Act through evidence showing that she was born to a U.S. citizen father named A-L-B-.

However, the Applicant has not provided evidence to show that she satisfied the remaining issues first raised within the context of the Director's RFE, including evidence showing that: (1) A-L-B- had agreed in writing to support the Applicant until she was 18 years of age, a condition of section 309(a)(3) of the Act; and (2) the Applicant had satisfied at least one of the section 309(a)(4) of the Act provisions through legitimation, formal acknowledgement of paternity, or a court-ordered finding of paternity through her U.S. citizen father, while she was still under 18 years of age.

The Applicant initially provided a statement from her mother, in which the mother described meeting A-L-B- in Panama and residing with him from November 1985 until December 1986, at which point the U.S. military ordered him to return to the United States. The mother stated that she gave birth to the Applicant in Panama in January 1987, and that A-L-B- thereafter provided some child support in the form of $150 per month until the Applicant turned 18 years of age. The mother stated that the Applicant finally met her father and her half-brothers and sisters in Alabama in July 2020, and the Applicant included photographs labeled to show that she was with her father and his U.S. family members in July 2020.

On appeal, the Applicant asserts that the results of her 2022 genetic testing establish A-L-B-'s paternity and she also claims that her father provided $150 per month for her upbringing until she turned 18 years of age. The Applicant includes a February 2022 statement from A-L-B- in which he claims that he lived with the Applicant's mother from November 1985 until December 1986, was aware that the mother was pregnant with his child when he returned to the United States, and was made aware of the Applicant's birth through mutual friends. He claimed that he provided monetary support to the Applicant in the form of $150 per month until the Applicant reached the age of 18 years in January 2005. Finally, A-L-B confirmed that he first met the Applicant in July 2020.

The record before us is insufficient to show that the Applicant's father agreed in writing to support the Applicant until she was 18 years of age, a condition at section 309(a)(3) of the Act. Although the Applicant, A-L-B-, and the Applicant's mother stated that A-L-B- had provided monthly child support for the Applicant in the past, the record does not contain supporting evidence in the form of, for example, cashed checks, bank statements, or wire transfer records confirming that he supported the Applicant in this manner for 18 years, as claimed. Consequently, without additional evidence, the

statements are not sufficient to satisfy the section 309(a)(3) of the Act conditions requiring evidence of A-L-B-'s written agreement to support the Applicant while she was under 18 years of age.

Moreover, the record does not show that the Applicant satisfies at least one of the section 309(a)(4) of the Act conditions involving legitimation or a formal acknowledgement or a court finding of paternity through her U.S. citizen father prior to the Applicant turning 18 years of age. Neither the Applicant nor her father assert, and the record does not otherwise show, that the Applicant was ever legitimated under the laws of Panama or her father formally acknowledged, or obtained a court order establishing, his paternity. Although the Applicant now claims that her father has recognized her in the form of the voluntary genetic testing conducted in 2022, and his appellate statement from February 2022 shows that he met her in July 2020 and currently acknowledges paternity, these acts did not occur prior to the Applicant turning 18 years of age in January 2005, as section 309(a)(4) of the Act requires. Moreover, as discussed, although the Applicant, her mother, and A-L-B- have asserted that A-L-B- provided monthly child support from January 1987 until January 2005, these statements are not supported by evidence documenting the claimed monthly payments and do not otherwise satisfy the section 309(a)(3) of the Act. Because the Applicant has not shown that she satisfies the section 309(a)(3) and (4) of the Act conditions, she is not eligible for a Certificate of Citizenship.

III. CONCLUSION

On appeal, the Applicant has submitted sufficient documentation to show that she is the biological child of a U.S. citizen. However, she has not shown that she has satisfied the section 309(a)(3) and (4) of the Act conditions, namely a written agreement by the U.S. citizen father to provide financial support and establishing paternity by the U.S. citizen father, while the Applicant was under the age of 18 years, as required. Consequently, the record does not show that the Applicant is eligible for a Certificate of Citizenship under sections 301(g) and 309(a) of the Act. For this reason, the appeal is dismissed.

ORDER: The appeal is dismissed.