



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

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

In Re: 22226849

Date: JULY 21, 2022

Appeal of Chicago, Illinois Field Office Decision

Form N-600, Application for Certificate of Citizenship

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

The Director of the Chicago, Illinois Field Office denied the Form N-600, concluding that the Applicant was not eligible for a Certificate of Citizenship under section 320 of the Act because his Form I-485, Application to Adjust Status or Register Permanent Residence (Form I-485), had been denied for abandonment and therefore he had not held status as a lawful permanent resident of the United States while under the age of 18 years, as required.

On appeal, the Applicant claims that because his mother did not know how to update her address online with U.S. Citizenship and Immigration Services (USCIS), she had not received the USCIS request for additional evidence relating to the Applicant's Form I-485, resulting in its denial for abandonment. The Applicant does not contest the Director's conclusion that he has not been accorded status as a lawful permanent resident of the United States.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant was born in Ghana in 2009 to a mother who became a naturalized U.S. citizen in 2020. The Applicant does not claim or provide evidence to show that his father is U.S. citizen; therefore, he seeks to show that he derived U.S. citizenship solely through the mother. The Applicant was admitted to the United States in July 2013 at the age of six years.

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). 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

under the age of 18 years when the CCA was enacted on February 27, 2001.¹ This section provides, in pertinent part, that:

- (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
 - (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
 - (2) The child is under the age of eighteen years.
 - (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

Moreover, the Applicant must meet the definition of a “child” in section 101(c)(1) of the Act, 8 U.S.C. § 1101(c)(1), which requires, in pertinent part, that during the relevant timeframe:

The term “child” means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child’s residence or domicile, or under the law of the father’s residence or domicile, whether in the United States or elsewhere . . . if such legitimation . . . takes place before the child reaches the age of 16 years . . . and the child is in the legal custody of the legitimating . . . parent or parents at the time of such legitimation

Because the Applicant was born abroad, he is presumed to be a foreign national and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008). Under the preponderance of the evidence standard, the Applicant must demonstrate that his claim is “probably true,” or “more likely than not.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Applicant has satisfied the conditions in section 320(a)(1) of the Act, as he was born outside the United States in Ghana in 2009 and his mother’s 2020 Certificate of Naturalization shows that he has a parent who is a U.S. citizen through naturalization. The Applicant also meets the definition of a child under the relevant section 101(c)(1) of the Act provisions in that there are no indications he is married. The remaining issues are whether the Applicant has shown that he was residing in his mother’s legal and physical custody sometime after an admission to the United States as a lawful permanent resident.

In this case, the Applicant confirms that he has not adjusted his status to that of a lawful permanent resident of the United States. Consequently, we conclude that the Applicant has not demonstrated that

¹ The amended provisions of sections 320 of the Act apply to individuals, such as the Applicant, who were not yet 18 years old as of February 27, 2001.

he meets the lawful admission while under the age of 18 years conditions for derivative citizenship at section 320(a)(2) and (3) of the Act. Moreover, we find that for purposes of this decision it is unnecessary for us to determine whether the Applicant has separately satisfied the section 320(a)(3) of the Act residing in the U.S. citizen parent's legal and physical custody conditions because he first must show he was residing in the United States as a lawful permanent resident while he was under the age of 18 years.²

Because USCIS records show that the Applicant's Form I-485 was denied in 2016 due to abandonment, he has not adjusted his status to that of a lawful permanent resident. Consequently, the Director concluded that the Applicant is statutorily ineligible for a Certificate of Citizenship because section 320(a)(3) of the Act includes, in part, a requirement that an applicant be residing in the United States as a lawful permanent resident while under the age of 18 years.

On appeal, the Applicant does not contest the Director's conclusion that the Applicant does not have status as a lawful permanent resident. Instead, he states that his mother did not know how to update her address with USCIS and his Form I-485 was consequently denied for abandonment after they had not responded to a USCIS notice seeking additional evidence. However, the requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress and USCIS does not have authority to issue a Certificate of Citizenship to an applicant who does not meet those statutory requirements. 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).

In this case, because the Applicant has not been granted status as a lawful permanent resident of the United States while under the age of 18 years, he has not demonstrated that he derived U.S. citizenship through his mother under section 320 of the Act.

ORDER: The appeal is dismissed.

² We reserve these issues. Our reservation of the issues is not a stipulation that the Applicant has overcome these additional possibilities for denial, and should not be construed as such. Rather, there is no constructive purpose to addressing the additional grounds here, because as shown below, they would not change the outcome of the appeal.