



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

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

In Re: 21383516

Date: APR. 19, 2022

Appeal of Oakland Park, Florida 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 father under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Director of the Oakland Park, Florida Field Office denied the Form N-600, concluding that the Applicant was not eligible for a Certificate of Citizenship under sections 301(g) and 309(a) of the Act because he did not show that his father had been physically present in the United States for at least five years prior to the Applicant's birth in 2002, no less than two of which were after the age of 14 years. However, these are not conditions at section 320 of the Act, the statute under which the Applicant seeks approval of his Form N-600.

On appeal, the Applicant states that the Director's decision was erroneous because the Director had applied unrelated statutory conditions.

Upon *de novo* review, we will remand the matter for proceedings consistent with this decision.

With respect to the Applicant's claim that he seeks to show he has derived U.S. citizenship under section 320 of the Act conditions, 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). The Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended sections 320 and 322 of the Act and repealed section 321 of the Act. The amended provisions of sections 320 of the Act apply to individuals who were not yet 18 years old as of February 27, 2001. Because the Applicant was born after 2001, and he is claiming he derived citizenship *after birth*, his citizenship claim must be considered under the provisions of section 320 of the Act, as he requests.

Section 320 of the Act conditions apply to a child born outside of the United States when: (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; and (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. However, as discussed, section 320 of the Act does not include requirements that the U.S. citizen parent have had physical presence in the United States.

Because the Director does not appear to have considered whether the Applicant automatically derived U.S. citizenship under section 320 of the Act conditions, we are returning the matter to the Director to determine whether or not the Applicant has satisfied those requirements. Moreover, we note that the record contains a valid U.S. passport that appears to have been issued to the Applicant in 2017. Consequently, we are returning the matter to the Director for consideration of the evidence submitted prior to and on appeal, including the U.S. passport, and in order to evaluate whether or not the Applicant has shown he met all of the section 320(a) of the Act conditions.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis.