



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

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

In Re: 26377566

Date: APR. 21, 2023

Appeal of Newark, New Jersey Field Office Decision

Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322

The Applicant's U.S. citizen mother seeks a Certificate of Citizenship on the Applicant's behalf under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The Director of the Newark, New Jersey Field Office denied the Form N-600K, concluding that the evidence was insufficient to establish that the Applicant's U.S. citizen grandmother had the five-year physical presence in the United States required under section 322 of the Act. The matter is now before us on appeal.

On appeal, the Applicant's mother submits additional evidence and reasserts eligibility.

The Applicant's mother 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 Applicant is over 18 years of age and statutorily ineligible for a Certificate of Citizenship under section 322 of the Act.

Section 322 of the Act, as amended by the Child Citizenship Act (CCA) of 2000 (Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000)), applies to children of U.S. citizens born and residing outside of the United States.

Section 322(a) of the Act provides, in relevant part that a parent who is a citizen of the United States may apply for naturalization on behalf of a child born outside of the United States, and the Secretary of Homeland Security shall issue a certificate of citizenship to such applicant upon proof, that the applicant meets all of the conditions in that section, which include the requirement of being "under the age of 18 years" in section 322(a)(3) of the Act.

The record reflects that in 2021, when the Applicant was 17 years and 4 months old his U.S. citizen mother filed the instant Form N-600K to obtain a Certificate of Citizenship on his behalf, representing that her own mother (the Applicant's grandmother) lived in the United States from 1955 until 1978. The Director requested evidence in support of that representation. The Applicant's mother responded, but the Director determined that the sole letter from the U.S. Embassy in Dublin, Ireland

listing the grandmother's minimal earnings in 1957, 1958, 1960, 1963, and 1966, was inadequate to show that she met the five-year U.S. physical presence requirement and denied the application.

Shortly before the Applicant's 18th birthday, his mother filed the instant appeal¹ with additional documents to show the Applicant's grandmother's prior physical presence in the United States and to overcome the reason for the denial.

We acknowledge the submission of this supplemental evidence. Unfortunately, because the Applicant is now over the age limit of 18 years set forth in section 322(a)(3) of the Act, he is statutorily ineligible for issuance of a Certificate of Citizenship regardless of whether he may have once met the other conditions in section 322 of the Act. As the Applicant is ineligible for issuance of a Certificate of Citizenship on that basis alone, we need not address if the additional documents submitted on appeal are sufficient to show that his U.S. citizen grandmother had the requisite five-year physical presence in the United States, or if the Applicant satisfied the remaining conditions in section 322 of the Act, including residence abroad in his U.S. citizen mother's legal and physical custody, and temporary presence in the United States pursuant to a lawful admission before he turned 18 years old. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Applicant is not eligible for issuance of a Certificate of Citizenship under section 322 of the Act because he is over 18 years old. His Form N-600K will therefore remain denied.

ORDER: The appeal is dismissed.

¹ Because of the appeal processing time, we did not receive it until the Applicant was over 18 years old.