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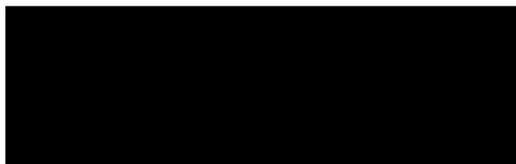
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED] Office: PHILADELPHIA, PENNSYLVANIA Date: OCT 06 2010

IN RE: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Guyana on October 7, 1999, to unmarried parents [REDACTED] and [REDACTED]. Neither parent was a U.S. citizen at the time of the applicant's birth. On October 4, 2004, the applicant was admitted to the United States as the child of a fiancé of a U.S. citizen. The applicant's mother married [REDACTED], a U.S. citizen by birth, on November 17, 2004. U.S. Citizenship and Immigration Services (USCIS) granted the applicant lawful permanent resident status on September 25, 2006. At the time this appeal was filed, the applicant had not been adopted by her stepfather. The applicant seeks a certificate of citizenship claiming that she derived U.S. citizenship from her stepfather pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director denied the application because: (1) the applicant did not acquire U.S. citizenship through her birth parents because neither parent was a U.S. citizen at the time of her birth; and (2) the applicant did not derive U.S. citizenship from her stepfather because he had not adopted her. *See Decision of the Director*, dated Feb. 16, 2010. On appeal, the applicant's stepfather states that he will begin the process to legally adopt the applicant in Pennsylvania. *See Form I-290B, Notice of Appeal*, filed Mar. 18, 2010.

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 this appeal because the applicant was not yet 18 years old as of the February 27, 2001 effective date of the CCA. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 156 (BIA 2001) (en banc).

Section 320(a) of the Act, 8 U.S.C. § 1431(a), provides:

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.

The Board of Immigration Appeals has held that section 320(a) of the Act does not permit an individual to derive U.S. citizenship through a nonadoptive stepparent. *Matter of Guzman-Gomez*, 24 I&N Dec. 824, 829 (BIA 2009).

Section 320(b) of the Act, 8 U.S.C. § 1431(b), provides that the automatic acquisition of U.S. citizenship under section 320(a) of the Act "shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1)." Under section 101(b)(1) of the Act, there are three subsections that apply to adopted children:

subsections (E), (F) and (G). 8 U.S.C. § 1101(b)(1)(E), (F), (G). Under subsection (E)(i), the only subsection potentially applicable in this case, the term “child” refers to “a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years.” Section 101(b)(1)(E)(i) of the Act.

Here, it is uncontested that the applicant has not been adopted by her U.S. citizen stepfather. *See Notice of Appeal; Letter from [REDACTED] and [REDACTED]*, dated Dec. 10, 2009. Because the applicant may not derive U.S. citizenship through her relationship to a nonadoptive stepparent, she is not eligible for a certificate of citizenship under section 320 of the Act. *See Matter of Guzman-Gomez*, 24 I&N Dec. at 829.

The applicant must meet her burden of proof by establishing the claimed citizenship by a preponderance of the evidence. 8 C.F.R. § 320.3. Here, the applicant has not met this burden. Accordingly, the applicant is not eligible for a certificate of citizenship under section 320 of the Act, and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.