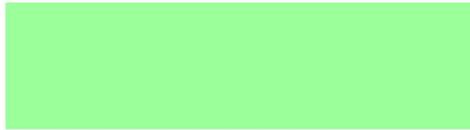


(b)(6)

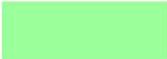
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090

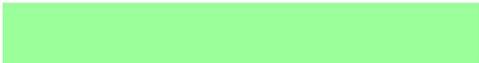


U.S. Citizenship  
and Immigration  
Services



DATE: **OCT 06 2014** OFFICE: DENVER, COLORADO

FILE: 

IN RE: 

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

ON BEHALF OF APPLICANT:

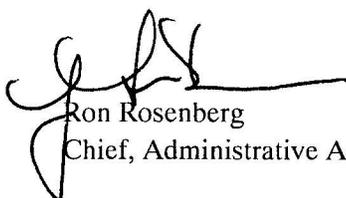
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Denver, Colorado Field Office (the director) denied the Application for Certificate of Citizenship (Form N-600), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

*Pertinent Facts and Procedural History*

The applicant was born in Mexico on May [REDACTED] to unmarried parents. He was admitted into the United States as a lawful permanent resident on December [REDACTED], when he was 13 years old. The applicant's father is not a U.S. citizen. His mother became a naturalized U.S. citizen on November [REDACTED] when the applicant was 18 years old. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that he derived U.S. citizenship through his mother.

In a decision dated March 6, 2014, the director determined that the applicant was ineligible for citizenship under section 320 of the Act because he was 18 when his mother became a naturalized U.S. citizen. The director noted that the applicant was also ineligible to derive citizenship under section 320 of the Act through his non-adoptive stepfather. The application was denied accordingly.

On appeal, the applicant concedes that he was 18 years old when his mother became a naturalized U.S. citizen. He contends, however, that U.S. Citizenship and Immigration Services (USCIS) unreasonably delayed the processing of his mother's naturalization application, that USCIS personnel instructed his mother to file a Form N-600 on his behalf, and that he therefore meets derivative citizenship requirements under section 320 of the Act. The applicant does not contest that he is ineligible to derive citizenship through his non-adoptive stepfather. No new evidence is submitted on appeal.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d. Cir. 2004).

*Applicable Law*

Section 320(a) of the Act provides, in pertinent part, that:

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.<sup>1</sup>
- (2) The child is under the age of eighteen years.

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<sup>1</sup> An individual may not derive U.S. citizenship through a non-adoptive stepparent. *See Matter of Guzman-Gomez*, 24 I&N Dec. 824, 829 (BIA 2009).

- (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.

Because the applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). *See also*, 8 C.F.R. § 341.2(c) 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 each case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm’r. 1989)).

#### *Analysis*

##### *Unreasonable Delay Claim*

The applicant provided no evidence to corroborate assertions that USCIS instructed his mother to file a Form N-600 on his behalf, or that USCIS unreasonably delayed his mother’s naturalization application; moreover, we have no jurisdiction over unreasonable delay claims arising under the Act or pursuant to equitable claims. *See generally*, 8 C.F.R. § 103.1(f)(3)(iii) (2003) and 8 C.F.R. § 2.1. The requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress, and USCIS lacks authority to issue a certificate of citizenship when an applicant fails to meet the relevant statutory provisions set forth in the Act. A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *See INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Where an applicant has failed to establish statutory eligibility for U.S. citizenship, a certificate of citizenship cannot be issued. *See Fedorenko v. U.S.*, 449 U.S. 490, 506 (1981).

##### *Section 320 of the Act*

It is uncontested that the applicant was 18 years old when his mother became a naturalized U.S. citizen. The applicant therefore does not meet the age requirements set forth in section 320(a)(2) of the Act. Accordingly, he does not qualify for derivative citizenship under section 320 of the Act.

#### *Conclusion*

The regulation provides at 8 C.F.R. § 341.2(c) that the burden of proof shall be on the applicant to establish his or her claimed citizenship by a preponderance of the evidence. Here, the applicant has failed to meet his burden of proof. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed. The application remains denied.<sup>2</sup>

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<sup>2</sup> This decision is without prejudice to the applicant’s filing a Form N-400, Application for Naturalization, pursuant to section 316 of the Act, 8 U.S.C. § 1427, if eligible.