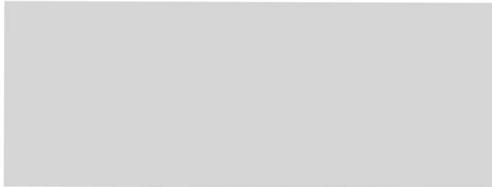




U.S. Citizenship  
and Immigration  
Services

(b)(6)



**JUN 10 2015**

DATE:

FILE #:

APPLICATION RECEIPT #:

IN RE: Applicant:

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

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The District Director, Baltimore, Maryland, denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

*Pertinent Facts and Procedural History*

The record reflects that the applicant was born in Sierra Leone on [REDACTED]. The record indicates that on February 12, 2008, the Ministry of Social Welfare, Gender and Children's Affairs, [REDACTED] approved an application for the adoption of the applicant by [REDACTED]. The applicant's adoptive mother, [REDACTED], is married to [REDACTED] who became a naturalized U.S. citizen on September 24, 2010. The applicant and her adoptive mother entered the United States on March 9, 2011. The applicant seeks a Certificate of Citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The District Director determined that the applicant did not meet the requirements for issuance of a certificate of citizenship under section 320 of the Act because the applicant was never legally adopted by her stepfather [REDACTED] and the application was denied accordingly. See *Decision of the District Director*, dated September 4, 2012.

On appeal, filed on October 2, 2012 and received by the AAO on December 22, 2014, the applicant's step-father contends that he was unable to travel to [REDACTED] for the adoption of the applicant, but gave a letter of consent for his spouse to adopt the applicant, and submits a consent order from a judge for the circuit court for [REDACTED] Maryland granting him legal custody of the applicant.

*Applicable Law*

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

Section 320(a) of the Act applies to children born outside of the United States who are residing permanently in the United States, and provides 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.

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).”

### *Analysis*

The record includes an approval of application for adoption issued by the Ministry of Social Welfare, Gender and Children’s Affairs, [REDACTED] on February 12, 2008, which states the ministry has no objection to the adoption of the applicant by [REDACTED]. On appeal, the applicant’s stepfather submits a copy of a letter dated December 4, 2009 in which he consents to the adoption of the applicant. However, the record does not include a finalized decree of adoption of the applicant by her stepfather.

On appeal, the applicant’s father submits a copy of a Consent Order, dated August 28, 2012 issued by a judge for the Circuit Court for [REDACTED], Maryland, which states that the applicant’s stepfather is awarded legal and physical custody of the applicant and the applicant’s biological parents are awarded reasonable and liberal rights of visitation.

The regulation at 8 C.F.R. § 320.1 states that the term “adopted” means “adopted pursuant to a full, final and complete adoption.”

In accordance with Maryland Family Law, § 5-313(a), a petition for guardianship must precede a petition for adoption. An order of guardianship terminates a parent’s duties, obligations and rights and the child’s guardian has legal custody of the child, unless the court gives custody to another person. Maryland Family Law § 5-325(a)(1), (b)(1). Insofar as the Consent Order submitted by the applicant awards custody of the applicant to her stepfather, it is not clear whether the order is an order for guardianship or adoption.

As it is unclear whether a Maryland court issued a final order of adoption for the adoption of the applicant by her stepfather, the August 28, 2012 Consent Order does not sufficiently satisfy the requirement in 8 C.F.R. § 320.1 that the applicant was adopted pursuant to a full, final and complete adoption and section 320(b) of the Act is inapplicable.

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.

### *Conclusion*



The applicant bears the burden of proof to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 341.2(c). Here, the applicant has not established that she met all of the conditions for the automatic derivation of U.S. citizenship pursuant to section 320 of the Act. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.