



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

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

MATTER OF S-J-Z-

DATE: OCT. 10, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM N-600K, APPLICATION FOR CITIZENSHIP AND ISSUANCE OF  
CERTIFICATE UNDER SECTION 322

The Applicant's mother, a citizen of the United States, seeks a Certificate of Citizenship on behalf of the Applicant, who is her adopted child born abroad in 2010. Immigration and Nationality Act (the Act) section 322, 8 U.S.C. § 1433. A U.S. citizen parent may apply for a Certificate of Citizenship on behalf of an adopted child born and residing outside of the United States in his or her physical and legal custody, if the child has been residing with and in the parent's legal custody for at least 2 years, and the parent, or the parent's U.S. citizen parent (the child's grandparent), had been physically present in the United States for 5 years, 2 of which were after the parent (or grandparent) turned 14 years old.

The Applicant's mother adopted the Applicant in Uganda in [REDACTED] 2015. A year later, she filed a Form N-600K requesting a Certificate of Citizenship on the Applicant's behalf pursuant to the above-referenced section 322 of the Act. The Director of the Atlanta, Georgia Field Office denied the Form N-600K, concluding that the Applicant did not meet the two-year legal custody requirement at the time it was filed, and she was therefore ineligible for a Certificate of Citizenship. We dismissed a subsequent appeal on the same ground, without prejudice to filing a motion to reopen or reconsider once the legal custody condition was satisfied.

On a motion to reopen and reconsider, the Applicant's mother submits new information concerning the adoption, which shows that the Applicant has now been in her legal custody for over two years.

Upon review, we find that this information overcomes the sole reason for the denial of the application for a Certificate of Citizenship. We will therefore reopen and remand the matter to the Director for further proceedings consistent with the following opinion.

**I. LAW**

After an application for a Certificate of Citizenship has been denied and the time for appeal has expired, any subsequent N-600K filings will be rejected, though an applicant may file a motion to reopen or reconsider in accordance with 8 C.F.R. § 103.5. 8 C.F.R. §§ 341.5(e), 322.5(c).

A motion to reopen is based on documentary evidence of new facts, and a motion to reconsider must show that our decision was based on an incorrect application of law or policy to the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(2)-(3).

As previously discussed, section 322 of the Act applies to children of U.S. citizens born and residing outside of the United States. It provides that a U.S. citizen parent may apply for naturalization of his or her child, and the Secretary of Homeland Security shall issue a Certificate of Citizenship to such child when certain statutory conditions have been fulfilled, the child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

Children who were adopted must meet additional requirements set forth in section 101(b)(1) of the Act, which defines the term “child,” in part, as 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. Sections 322(c) and 101(b)(1)(E)(i) of the Act.

*Legal custody* refers to the responsibility for and authority over a child. 8 C.F.R. § 322.1. In the case of an adopted child, a determination that a U.S. citizen parent has legal custody will be based on the existence of a final adoption decree. *Id.*

## II. ANALYSIS

In our previous decision, which we incorporate here by reference, we found that the Applicant was ineligible for a Certificate of Citizenship because she was adopted less than two years before the filing and adjudication of the Form N-600K. Accordingly, at that time she did not meet the two-year legal custody requirement in section 101(b)(1) of the Act, and she therefore did not qualify as her mother’s “child” for the purposes of section 322 of the Act.

With the instant motion, filed in June 2018, the Applicant’s mother submits a copy of the adoption decree, which shows that she adopted the Applicant in Uganda on [REDACTED] 2015, and on the same date the court ordered that she would “have exclusive care, custody and control of [the Applicant], free from the claims or hindrances of all others, and [would] be held responsible for her maintenance, education and support.” The decree establishes that the legal custody of the Applicant’s mother commenced on [REDACTED] 2015. Thus, the Applicant has been in the legal custody of her mother for over two years at this time. Moreover, the evidence in the record, including statutory declarations and documents submitted in support of the petition for adoption indicate that the Applicant has been residing with her mother since 2011 as her foster child. Based on the above, we conclude that the Applicant now meets the two-year residence and legal custody requirements applicable to adopted children, and she qualifies as her mother’s “child” within the meaning of section 322 of the Act.

Accordingly, as the sole basis for the denial has been overcome, we find that reopening of these proceedings is warranted. The motion to reconsider is therefore moot and we will not address it further.

Section 322(a)(5) of the Act requires the Applicant to be temporarily present in the United States pursuant to a lawful admission to receive a Certificate of Citizenship. In addition, the regulation at 8 C.F.R. § 322.4 provides that the U.S. citizen parent and the child must appear in person before a U.S. Citizenship and Immigration Services officer for examination on the application under section 322 of the Act.

Because the record indicates that the Applicant and her mother reside in Uganda, we will remand the matter to the Director to schedule an interview on the Form N-600K and to determine whether the Applicant satisfies the remaining requirements for issuance of a Certificate of Citizenship under section 322 of the Act, including her mother's (or her grandparent's) five-year physical presence in the United States, and the Applicant's current residence in the physical and legal custody of her mother outside of the United States. The Director shall also give the Applicant an opportunity to provide any additional evidence that may be needed to establish that those requirements have been met before or at the time of the interview.

**ORDER:** The motion to reopen is granted, and the matter is remanded for the entry of a new decision consistent with the foregoing analysis, which, if adverse, shall be certified to us for review.

Cite as *Matter of S-J-Z-*, ID# 1906235 (AAO Oct. 10, 2018)