



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

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

In Re: 31336253

Date: APR. 17, 2024

Appeal of Atlanta, Georgia Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad in 1977 to noncitizen parents, seeks a Certificate of Citizenship to reflect that she derived citizenship from her naturalized U.S. citizen mother under former section 321 of the Act, 8 U.S.C. § 1432. To derive citizenship under that section of the Act, a foreign-born child must satisfy certain statutory conditions before turning 18 years of age, including lawful permanent residence in the United States and naturalization of both parents, or one parent, if additional requirements are met. Specifically, the second clause of former section 321(a)(3) of the Act provides for derivative citizenship of a child upon “naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation.”

The record reflects that in 1992, at the age of 14 years, the Applicant was admitted to the United States as a lawful permanent resident based on an immigrant visa petition filed by her mother, who naturalized as a U.S. citizen in 1990.

In denying the Applicant’s Form N-600, the Director of the Atlanta, Georgia Field Office indicated generally that although the definition of “both parents” under former section 321 of the Act included the mother of an out-of-wedlock child, as long as the child has not been legitimated, the Applicant was ineligible for a Certificate of Citizenship under former section 321 of the Act.¹

On appeal, the Applicant offers additional evidence and reasserts eligibility. She reiterates that she met the relevant conditions in former section 321(a)(3) of the Act to derive citizenship from her mother, because she was born out wedlock, her parents never married, and her father did not legitimate her in Nigeria. In support, she submits her and her mother’s statements, court documents, birth certificates, a 1974 decision of the Board of Immigration Appeals addressing legitimation in Nigeria,² and a Library of Congress advisory opinion concerning legitimation under Nigerian Ibo customary law.

¹ The Director did not explain the specific reasons for this determination. *See* 8 CFR § 103.3(a) (providing, in relevant part that when a U.S. Citizenship and Immigration Services’ officer denies an application, the officer must explain in writing the specific reasons for denial). The Director further stated that the Applicant was ineligible to derive citizenship from her mother under current section 320 of the Act, 8 U.S.C. § 1431, because she was over 18 years of age when that section took effect in February 2001. The Applicant does not contest that she does not qualify for derivative citizenship under section 320 of the Act.

² *Matter of Coker*, 14 I&N Dec. 521 (BIA 1974).

Because the record does not indicate that the Director considered this evidence before forwarding the appeal to our office, we will return the matter for the Director to review it and to determine in the first instance whether it is sufficient to support the Applicant's claim of derivative citizenship under former section 321(a)(3) of the Act and to enter a new decision. If the decision is adverse to the Applicant, the Director shall explain the specific reasons for the adverse determination in the new decision.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.