



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

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

In Re: 22145118

Date: APR. 21, 2022

Appeal of San Antonio, Texas Field Office Decision

Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship through her father under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The Director of the San Antonio, Texas Field Office denied the Form N-600K, concluding the Applicant provided insufficient evidence to establish that she shared a biological or other qualifying relationship with her claimed U.S. citizen father. As a consequence, the Director found that the Applicant was ineligible for approval of a Form N-600K under section 322 of the Act.

On appeal, the Applicant submits additional evidence and indicates that the record now sufficiently demonstrates that her mother met section 322 of the Act U.S. physical presence conditions.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

The record reflects that the Applicant was born in Ghana in [REDACTED] 2004 to unmarried parents who were citizens of Ghana. According to the Applicant, her father was B-E-O-L-,<sup>1</sup> who became a naturalized U.S. citizen in March 2005, and died in Ghana in January 2019. The Applicant does not claim that her mother became a naturalized U.S. citizen. The Applicant asserted that she resides in Ghana with her mother and claims U.S. citizenship under section 322 of the Act solely through her deceased father.

Section 322 of the Act (as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000)), applies to children who were born and reside outside of the United States, and states, in pertinent part that:

(a) A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General [now Secretary of the Department of Homeland Security (Secretary)] shall issue a certificate of citizenship to

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<sup>1</sup> Names withheld to protect the individuals' identities.

such applicant upon proof, to the satisfaction of the [Secretary], that the following conditions have been fulfilled:

- (1) At least one parent (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.
  - (2) The United States citizen parent--
    - (A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years . . . .
  - (3) The child is under the age of eighteen years.
  - (4) The child is residing outside of the United States in the legal and physical custody of the [citizen parent] (or, if the citizen parent is deceased, an individual who does not object to the application).
  - (5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.
- (b) Upon approval of the application . . . [and] upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General [Secretary] with a certificate of citizenship.

Regulations at 8 C.F.R. § 322.1 provide that for section 322 of the Act purposes, the term “child” means a person who meets the requirements of section 101(c) of the Act. Section 101(c) of the Act defines the term “child” in pertinent part to mean “an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child’s residence or domicile, or under the law of the father’s residence or domicile, whether in the United States or elsewhere, and . . . the child is in the legal custody of the legitimating . . . parent or parents at the time of such legitimation . . . .” The child must have either a biological or legal adoptive relationship with the claimed U.S. citizen parent. *See Matter of Guzman-Gomez*, 24 I&N Dec. 824, 826 (BIA 2009).

Because the Applicant was born abroad, she is presumed to be a foreign national and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008). The “preponderance of the evidence” standard requires the record to demonstrate that the Applicant’s claim is “probably true,” based on the specific facts of her case. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Applicant initially established that she meets some of the requirements for issuance of a Certificate of Citizenship under section 322 of the Act. The Applicant's birth certificate shows that she was born abroad and that she is under 18 years of age; therefore, she partially satisfies conditions at section 322(a)(3) of the Act. In addition, other evidence that includes U.S. wage and tax statements from 2004 to 2009, school records from Maryland, and Maryland state tax records collectively shows that the Applicant's claimed father, B-E-O-L-, satisfied the U.S. physical presence conditions at section 322(a)(2) of the Act. The Applicant asserts she is unmarried and nothing in the record contradicts this assertion; therefore, the record is sufficient to show that she satisfies the "unmarried" condition that applies to the definition of a "child" under section 101(c) of the Act.

However, to qualify as the "child" of a U.S. citizen father under the remaining conditions at section 101(c) of the Act, the Applicant also must show that: (1) B-E-O-L- was in fact her father; (2) B-E-O-L- legitimated her under the law of her residence or domicile, or under the law of his residence or domicile, whether in the United States or elsewhere; and (3) she was residing in B-E-O-L-'s legal custody when he legitimated her.

We find that for purposes of this decision it is unnecessary for us to determine whether the Applicant has met the section 101(c) of the Act legitimation and legal custody conditions because even *assuming arguendo* that she can satisfy these conditions, there is insufficient evidence to establish that B-E-O-L- was in fact her father, as claimed. Therefore, the primary issue before us is whether or not the Applicant can first show that she has a father who was a U.S. citizen, as required under section 322 of the Act.<sup>2</sup>

### A. Lack of Evidence to Establish the Biological Parent-Child Relationship

Although the Applicant provided evidence that B-E-O-L- is U.S. citizen, the record does not show that he is in fact her biological father. The Applicant initially submitted a Certified Copy of Entry in Register of Births from Ghana showing that her mother had reported the Applicant's [redacted] 2004 birth in June 2005. However, in a request for evidence (RFE) of her biological relationship to B-E-O-L-, the Director requested that the Applicant provide additional evidence of her biological relationship with B-E-O-L- because the late-registration of her birth was not sufficient. The Director specifically noted that the U.S. Department of State website advises that a birth registration in Ghana that is "not made within one year of an individual's birth [is] not reliable evidence of identity or relationship, since any registration, but especially late registrations, may often be accomplished upon demand, with little or no supporting documentation required," and therefore secondary evidence secondary evidence includes "midwife's certificates of birth, 'weighing cards' or welfare centre cards, . . . baptismal certificates," and that "Ghana Health Service . . . Child Health Record (a green pamphlet), and Maternal Health Record (a pink pamphlet) to every infant and pregnant woman as a means of recording medical details of pregnancy and the first year of life."<sup>3</sup> The Director also noted that USCIS records

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<sup>2</sup> We reserve these issues. Our reservation of the issues is not a stipulation that the Applicant has overcome these additional possibilities for denial, and should not be construed as such. Rather, there is no constructive purpose to addressing the additional grounds here because they would not change the outcome of the appeal.

<sup>3</sup> (<https://travel.state.gov>).

did not indicate that B-E-O-L- had traveled outside of the United States during the time period that the Applicant could have been conceived.

In response to the RFE, the Applicant claims that her mother and B-E-O-L- had a lengthy relationship and claims for the first time that she also has an older brother. She provided copy of her Ghana Health Service Child Health Records (child health records), which lists her father's name and information from around the time of her birth including vaccinations and her birth weight. However, the Director noted that the document did not include information in the appropriate section about her claimed older sibling and therefore did not corroborate her claim to have been one of several children born to her mother and B-E-O-L-.

On appeal, the Applicant provides two genetic (DNA) test results relating to her, her brother, and their uncle. She asserts that these are sufficient to establish that B-E-O-L- is her biological father, despite the Director's claim that her father did not appear to have been in Ghana during the period that the Applicant was conceived. We find this evidence is unavailing as the Applicant does not cite to any policy guidance which would permit consideration of an applicant / sibling or an applicant / uncle test for documentation of a parental relationship. Consequently, the DNA test results submitted on appeal are insufficient to establish an actual biological parent-child relationship between the Applicant and B-E-O-L-.

The Applicant also provides a copy of a Survivor's Benefit Payment Advice (benefit statement) issued by Ghana's Social Security and National Insurance Trust (SSNIT). The Applicant claims the benefit statement shows that B-E-O-L- had acknowledged her as one of his children and intended to provide for her. Although the document reflects that the benefit claim was based on B-E-O-L-'s date of death on January 19, 2021, it also shows that the death benefit claim was made in April 2020, and that the benefit statement was issued by the SSNIT pension manager in November 2020, both of which dates pre-date B-E-O-L-'s claimed year of death in 2021. The burden is on the Applicant to resolve this incongruity in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Based on this contradictory information, the benefit statement does not establish that the Applicant has been designated survivor benefits based on a father-daughter relationship to B-E-O-L-.

The remaining evidence that the Applicant cites to on appeal includes statements from family and friends who attest that they were aware that the Applicant's mother and B-E-O-L- had been in a relationship before and after the Applicant's birth, and photographs of the Applicant and other family members, including B-E-O-L-. However, in the RFE, the Director had advised the Applicant that absent primary or even secondary evidence of the biological relationship between B-E-O-L- and the Applicant, such evidence would be insufficient. Although the affidavits and photographs may show that the Applicant's mother had a relationship with B-E-O-L-, and that the Applicant was photographed with B-E-O-L- on certain occasions, and that she attended his funeral, such evidence does not establish that they shared a *biological* relationship. *Matter of Guzman-Gomez*, 24 I&N Dec. at 826. Consequently, the Applicant has not shown that she has a U.S. citizen parent for purposes of establishing eligibility for a Certificate of Citizenship under section 322 of the Act.

## B. Improperly Filed Application from U.S. Citizen Guardian

As an additional matter, the Applicant has not shown that the Form N-600K was properly filed by a U.S. citizen legal guardian. When a U.S. citizen parent is deceased, the Form N-600K must be filed by a surviving U.S. citizen parent, U.S. citizen grandparent, or a U.S. citizen legal guardian. 8 C.F.R. § 322.3(a).

In response to the Director's RFE seeking, in pertinent part, evidence regarding her legal guardian, the Applicant claims that her paternal aunt, C-O-O-, is a U.S. citizen who has legal custody of the Applicant. As evidence of the guardianship, she included a copy of a May 2021 Statutory Declaration (declaration) from her mother and a Power of Attorney & Power of Appointment for Legal Guardianship (POA), both filed with the Superior Court of Judicature in the High Court of Justice, [REDACTED] Ghana. In the declaration and POA, the mother stated that she wished to appoint C-O-O- as the attorney in fact and legal guardian of the Applicant. According to the declaration and POA, the Applicant's mother claimed that C-O-O- resides in the United States. Moreover, on the Form N-600K and Form I-290B, the Applicant indicated that C-O-O- resides in [REDACTED] Texas. On appeal, the Applicant again states that she resides in Ghana, and that C-O-O- resides in Texas. However, the instructions to the Form N-600K require that if a U.S. citizen legal guardian is filing the Form N-600K, the Applicant must provide evidence of legal guardianship in the form of "[c]ertified evidence of legal guardianship issued by the legal authority of the *guardian's* residence or domicile."<sup>4</sup> Consequently, based on the Applicant's own claims that C-O-O- resides in Texas, the documents from Ghana do not show that the Form N-600K was properly filed.

## III. CONCLUSION

The Applicant has not shown that her father is a U.S. citizen named B-E-O-L-, as claimed. Consequently, she is ineligible for approval of a Form N-600K under section 322 of the Act as a child of a U.S. citizen parent. Moreover, the Applicant has not shown that the Form N-600K was properly filed because her claimed legal guardian resides in the United States whereas the guardianship documents were obtained from Ghana. For this additional reason, the Applicant has not shown she is eligible for a Certificate of Citizenship under section 322 of the Act.

**ORDER:** The appeal is dismissed.

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<sup>4</sup> Form N-600K, Instructions for Application for Citizenship and Issuance of Certificate under Section 322, *What Evidence Must You Submit?*, p. 10. (<https://www.uscis.gov/forms/all-forms>).