



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

E3



FILE [REDACTED] Office: Anchorage

Date:

NOV 27 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Replacement Naturalization/Citizenship Document under § 343 of the Immigration and Nationality Act, 8 U.S.C. 1454

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Murean, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Anchorage, Alaska, and is now before the Associate Commissioner for Examinations on appeal. The district director's decision will be withdrawn and the matter will be remanded for further consideration.

The applicant was born in [REDACTED] in [REDACTED] and alleges to be a naturalized citizen of the United States. The applicant alleges that he was naturalized with his parents on an unknown date in Detroit, Michigan at the age of 15 years (1954). He seeks a replacement of new papers relating to naturalization, citizenship or repatriation under § 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1454, for having lost a previously issued certificate in 1968.

The district director reviewed the application, the Service's records and a search by the Court of Naturalization in Detroit, Michigan and noted that the Service was unable to verify the existence of an immigrant file for the applicant or naturalization decree in his behalf. The district director also noted that the applicant failed to appear for an interview on April 28, 1992 regarding a previously filed application. That application was deemed abandoned pursuant to 8 C.F.R. 103.2(b) and the application was denied accordingly. The district director denied the present application because the applicant did not demonstrate eligibility at the time of filing the application and he has not submitted additional documentation to support his claim.

The present application was filed on May 25, 1999. The applicant has maintained contact with the Service by telephone calls and personal visits.

On appeal, the applicant states that he has contacted the agencies whose addresses were given to him by the Michigan District Court and all replies were negative. He states that he is still waiting for the reply from the National Archive Office. According to the applicant, his records were lost by the Detroit Service office in the 1960's. The applicant states that the Detroit Service office had records of his mother, father and sister.

On appeal, the applicant states that an authenticated Marine Corps document, DD Form 214, was not considered as proof of naturalization. The applicant also submitted a copy of certificate of proof of citizenship of foreign-born applicant for enlistment which was signed by [REDACTED] recruiting officer on [REDACTED] which indicates that the applicant was naturalized on [REDACTED] by the U.S. District Court in Detroit, Michigan and was issued Certificate of Naturalization No. [REDACTED]

The record contains a letter from the Anchorage Service office dated January 3, 2000 in which the above information as well as the name of the applicant's parents was forwarded to the Director, National Archives, Chicago, Illinois for assistance. A reply from the National Archives is not contained in the record.

Section 343 of the Act, 8 U.S.C. 1454, provides the statutory authority regarding the replacement of a Certificate of

Naturalization only if the original was lost, mutilated, or destroyed, or if the applicant's name is changed after naturalization by order of the court or by marriage. The regulations at 8 C.F.R. 343a.1, regarding the procedure and grounds for obtaining a replacement Certificate of Naturalization, are quite clear and are not discretionary.

Since the applicant's claim is supported by documentation that is pending review and research by the National Archives and a result of that review and research has not been included in the present record, the district director's decision will be withdrawn and the matter will be remanded to him to await a response from the Director, National Archives. Upon receipt of the Director's response, the district director will enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner for review.

ORDER: The district director's decision is withdrawn. The matter is remanded to him for further consideration based on the above discussion and the entry of new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner for review.