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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



EB

APR 11 2005

FILE:



Office: NEW YORK, NY

Date:

IN RE:

Applicant:



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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native of Colombia. He seeks the replacement of his lost Certificate of Naturalization pursuant to section 343 of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1454.

The district director denied the application for lack of prosecution because the applicant failed to provide marriage certificate documentation relating to his marital status.

The applicant asserts on appeal that he has lost his original Certificate of Naturalization and that he is unable to obtain his marriage certificate. The applicant requests that a replacement Certificate of Naturalization be issued.

Section 343 of the Act provides the statutory authority relating to the replacement of a lost Certificate of Naturalization 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. Section 343 of the Act provides, in pertinent part that:

(a) If any certificate of naturalization or citizenship issued to any citizen . . . is lost, mutilated, or destroyed, the citizen . . . may make application to the Attorney General [now, Secretary, U.S. Department of Homeland Security, "Secretary"] for a new certificate If the Attorney General [Secretary] finds that the certificate . . . is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate If the certificate . . . has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate If the certificate . . . has been lost, the applicant or any other person who shall have, or may come into possession of it is hereby required to surrender it to the Attorney General [Secretary].

. . . .
(c) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General [Secretary] finds the name of the applicant to have been changed as claimed, the Attorney General [Secretary] shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

8 C.F.R. § 343a.1 contains specific regulations regarding the replacement of lost Certificates of Naturalization, and provides, in pertinent part:

(a) Lost, mutilated, or destroyed naturalization papers. A person whose . . . certificate of naturalization . . . has been lost, mutilated, or destroyed, shall apply on Form N - 565 for a new paper in lieu thereof.

(b) New certificate in changed name. A naturalized citizen whose name has been changed after naturalization by order of court or by marriage shall apply on Form N - 565 for a new certificate of naturalization, or of citizenship, in the changed name.

(c) [I]f, subsequent to naturalization . . . the applicant's name was changed by marriage, the certification of the positive photocopy shall show both the name in which the proceedings were conducted and the changed name.

The information provided on the applicant's Form N-565, Application for Replacement Naturalization/Citizenship Document (N-565 application) reflects the applicant's request for a new Certificate of Naturalization based on the claim that the original certificate was lost. The N-565 application reflects further that the applicant, who is listed as single on his original Certificate of Citizenship, dated May 16, 1997, is now married. The N-565 application reflects, however, that the applicant is not applying for a new Certificate of Naturalization due to a marriage-based name change.

The AAO finds that the statutory and regulatory authority relating to the replacement of a Certificate of Naturalization requires proof of marital status (i.e. a marriage certificate) for the issuance of a new Certificate of Naturalization containing a name change due to marriage. The AAO finds no statutory or regulatory authority, however, to support the district director's requirement that the applicant provide documentation relating to his marriage, in order to be issued a replacement Certificate of Naturalization that involves no name change.

The AAO notes that the applicant's status as a naturalized U.S. citizen is not in doubt. The record contains a copy of the applicant's Certificate of Naturalization issued on May 16, 1997. Moreover, U.S. Citizenship and Immigration Services (CIS) computerized database information reflects that the applicant became a naturalized U.S. citizen on May 16, 1997. The AAO therefore finds that based on the evidence in the record, the applicant has established his eligibility for a new replacement Certificate of Naturalization pursuant to section 343 of the Act. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained.