



U.S. Citizenship
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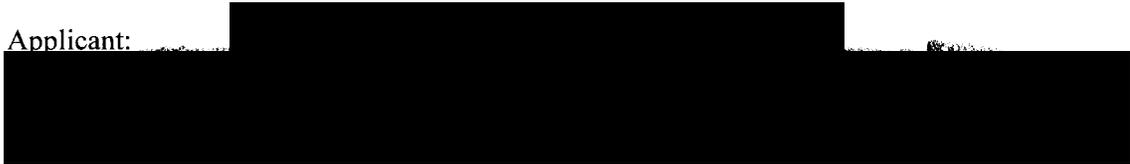


Office: NEW YORK, NY

Date: OCT 21 2005

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:



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 matter will be remanded.

The record reflects that the applicant is a native of Egypt and a naturalized citizen of the United States. The applicant seeks a new Certificate of Naturalization pursuant to section 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1454, to reflect a change in his name from [REDACTED] to [REDACTED]

The district director denied the Form N-565 Application for Replacement of Naturalization (N-565 application) for lack of prosecution based on a finding that the applicant had failed to provide material documentation needed to adjudicate his eligibility for a replacement naturalization document. Specifically, the district director had requested copies of the applicant's court ordered name change from [REDACTED] and from [REDACTED]. The district director had additionally requested copies of police reports relating to the applicant's lost naturalization certificates, a copy of his birth certificate, and copies of the applications used by the applicant to obtain U.S. passports.

On appeal, counsel asserts that the applicant provided the district director with the requested name change documentation. Counsel additionally asserts that the applicant does not have police reports for his lost naturalization certificates, and he asserts that the applicant has not yet received his Department of State passport information, but that in any case, the district director's decision refers to information received independently from the Department of State. Counsel concludes that the applicant's application was improperly denied for lack of prosecution.

An application may be denied due to lack of prosecution if an applicant fails to submit evidence that enables U.S. Citizenship and Immigration Services (CIS) to examine or pursue a material line of inquiry regarding the applicant's eligibility for the benefit sought. *See generally*, 8 C.F.R. § 103.2(b)(14). The purpose of a request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established. *See* 8 C.F.R. §§ 103.2(b)(8) and (12).

Section 343 of the Act states in pertinent part:

(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 [now, Secretary, U.S. Department of Homeland Security ("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 states in pertinent part:

(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) Disposition. The applicant shall only be required to appear in person before an officer for interview under oath or affirmation in specific cases. Those cases which necessitate an interview enabling an officer to properly adjudicate the application at the office having jurisdiction will be determined by a supervising officer. If an application for a new certificate of naturalization . . . is approved, the new certificate or declaration shall be issued and delivered by personal service in accordance with Sec. 103.5a(a)(2) of this chapter If the application is denied, the applicant shall be notified of the reasons therefore and of the right to appeal in accordance with the provisions of Part 103 of this chapter.

The AAO finds that the district director's decision fails to explain why submission of the additionally requested documents was required, or how submission of the documents would enable the district director to examine or pursue a material line of inquiry regarding the applicant's eligibility for a new certificate of citizenship. The AAO notes that the applicant submitted a copy of his court ordered name change from [REDACTED] upon submission of his N-565 application. It thus appears that the applicant met the statutory requirements for applying for a new certificate of naturalization as set forth in section 343 of the Act and in 8 C.F.R. § 343a.1. The AAO finds that the applicant has overcome the basis of the district director's denial of his application. Accordingly, the AAO finds it necessary to remand the present matter to the district director for adjudication of the applicant's eligibility for a new Certificate of Naturalization. If a new decision is adverse to the applicant, the decision shall be certified to the AAO for review, accompanied by a properly prepared record of proceedings.

ORDER: The matter is remanded to the district director for further action consistent with this decision.