



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

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[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 11 2007

IN RE:

[Redacted]

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338  
of the Immigration and Nationality Act, 8 U.S.C. § 1149.

ON BEHALF OF PETITIONER:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded to the California Service Center for further action.

The applicant is a native of China and a naturalized citizen of the United States. He seeks to have his Certificate of Naturalization corrected under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, to reflect a change in his date of birth from November 20, 1952 to November 20, 1950. The AAO notes that the Director of the California Service Center stated the applicant wanted to change his date of birth from November 20, 1952 to November 22, 1950. As the record contains no mention of a November 22, 1950 date of birth, and the applicant submitted a Chinese birth certificate and translation with the November 20, 1950 date of birth, the AAO finds that the applicant seeks to change his date of birth to November 20, 1950 and not November 22, 1950.

The Director reviewed the applicant's record and determined that his request was not justifiable. The application was denied accordingly.

On appeal, the applicant asserts that his Certificate of Naturalization contains an erroneous date of birth. The applicant submits a certificate of birth from China that states he was born on November 20, 1950.

Section 338 of the Act provides the statutory authority relating to the contents of a Certificate of Naturalization. In addition, the specific regulations regarding the execution and issuance of Certificates of Naturalization are contained in 8 C.F.R. § 338.5, and provide, in part, that:

- (a) Whenever a Certificate of Naturalization has been delivered which does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate, an application for issuance of a corrected certificate, Form N-565, without fee, may be filed by the naturalized person.

....

- (e) The correction will not be deemed to be justified where the naturalized person later alleges that the name or date of birth which the applicant stated to be his or her correct name or date of birth at the time of naturalization was not in fact his or her own name or date of birth at the time of naturalization.

The AAO observes that the record does not contain the documentation used by the California Service Center to make a decision. The AAO is unable to make a determination based on the current record. The California Service Center needs to assemble a new record of proceeding containing all the materials they used in making their decision and return the complete file to the AAO.

Based on the reasoning set forth above, the appeal will be remanded to the California Service Center.

**ORDER:** The appeal is remanded.