



U.S. Citizenship  
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Services

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FILE:

Office: NEW YORK, NY

Date:

**MAR 03 2009**

IN RE:

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338 of the Immigration and Nationality Act, 8 U.S.C. § 1449.

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in cursive script, appearing to read "John F. Grisson".

John F. Grisson, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, New York, New York. The decision was appealed to the Administrative Appeals Office (AAO) and the matter remanded to the district director for a complete record of proceeding. The appeal is now before the AAO with a complete record of proceeding and will be dismissed.

The applicant is a native of Mexico and a naturalized citizen of the United States. He seeks to have his Certificate of Naturalization issued under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, corrected in order to reflect a change in his name from [REDACTED] to [REDACTED]

The district director determined that a correction of the applicant's name on his Certificate of Naturalization was not justified without a court issued name change and the application was denied accordingly. *Decision of the District Director*, at 1, dated October 29, 2004.

On appeal, counsel asserts that the regulations at 8 C.F.R. § 334.16 permit one to correct clerical errors in a Certificate of Naturalization. *Form I-290B*, received November 15, 2004.

Section 338 of the Act provides the statutory authority related to the contents of a Certificate of Naturalization. In addition, the specific regulations regarding the correction of Certificates of Naturalization are located at 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.

Based on the evidence contained in the record, the applicant has not established that his Certificate of Naturalization contains Immigration and Naturalization Service (now United States Citizenship and Immigration Services (USCIS)) related clerical errors, as the AAO finds that the information on the applicant's Certificate of Naturalization conforms to the facts as set forth at the time of naturalization. The applicant's Form N-649, Certificate Preparation Sheet and Oath Declaration, reflects that he requested a name change to [REDACTED] and he signed the Oath of Allegiance with the name [REDACTED]. *Applicant's Form N-649*, dated April 3, 2002. The applicant's Petition for Name Change, which was certified as part of the naturalization process on the day he naturalized, reflects a name change from [REDACTED] to [REDACTED]. *Petition for Name Change*, certified May 1, 2002. As such, there are no provisions under 8 C.F.R. § 338.5 to justify or to allow a USCIS correction of the applicant's name on his Certificate of Naturalization.

The AAO notes that section 343(c) of the Act allows for the issuance of a new Certificate of Naturalization when after naturalization an individual's name is changed by a court or by marriage. The Form N-565, Application for Replacement Naturalization/Citizenship Document, Part 4, indicates only two bases for seeking a new Certificate of Naturalization based on a change of name: marriage/divorce (with a copy of the certificate) or a court decree (with a copy of the decree).

As the applicant has not established that the name appearing on his Certificate of Naturalization is the result of clerical error, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.