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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

E3

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

AUG 12 2010

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for a Replacement Citizenship Document (Form N-565)

ON BEHALF OF APPLICANT:

[REDACTED]

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 [REDACTED]. 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).

[REDACTED]

Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of [REDACTED] who derived U.S. citizenship through her parents. The applicant seeks to amend her certificate of citizenship claiming that the date of birth listed on her certificate is incorrect.

The Service Center Director determined that the date of birth listed on her certificate of citizenship, October 14, 1969, is the date listed on her Form N-600, Application for Certificate of Citizenship. The director further noted that the applicant failed to establish that a clerical error was made in the preparation of her certificate of citizenship. The application was accordingly denied.

On appeal, the applicant maintains that her date of birth is October 14, 1973. *See* Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO and Appeal Statement. She explains, in relevant part, that her family fled Burma in haste to escape persecution and the Burmese government seized her family's legal documents. *Id.* She states that she has recently obtained a correct birth certificate, a copy of which she submits on appeal. *Id.*

Section 343 of the Act, 8 U.S.C. § 1454, and the corresponding regulations at 8 C.F.R. § 343a provide no authority to change the date of birth on a certificate of citizenship. At most, the statute and regulations allow for issuance of a replacement certificate if the original document has been lost, mutilated or destroyed; or if a citizen's name has changed after naturalization due to marriage or a court order. *See* Section 343(a), (c) of the Act; 8 C.F.R. § 343a.1. None of these circumstances are present in the applicant's case.

Section 338 of the Act, 8 U.S.C. § 1449, and the regulations promulgated thereunder, at 8 C.F.R. § 338.5, permit the correction of a certificate of naturalization in certain limited circumstances, but the applicant in this case did not naturalize, she derived citizenship through her parents and was, accordingly, issued a certificate of citizenship, not naturalization. Even if the regulations pertaining to the correction of naturalization certificates were extended to certificates of citizenship, the applicant would not meet the requirements for a corrected certificate.

The regulation at 8 C.F.R. § 338.5 provides, in pertinent part:

- (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 name or date of birth at the time of the naturalization.

In this case, the record reveals no nonconformity or clerical error in the preparation of the applicant's certificate. The applicant's Form N-600, Application for [REDACTED] states [REDACTED] as her date of birth, the same date stated on her certificate of citizenship. October 14, 1969 is also stated as the applicant's date of birth on the Form I-130, petition for alien relative, filed by her father on her behalf and the accompanying birth certificate; her immigrant visa application and visa; her reentry permit; and her record of lawful permanent residency.

As noted above, neither the Act nor the regulations, provide any authority for U.S. Citizenship and Immigration Services (USCIS) to change the date of birth on a certificate of citizenship. Even if the regulations pertaining to the correction of naturalization certificates were extended to certificates of citizenship, the applicant would not meet the requirements for a corrected certificate. [REDACTED] § [REDACTED] The applicant's appeal must therefore be dismissed.

ORDER: The appeal is dismissed.