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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  
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Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER

Date: SEP 10 2010

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

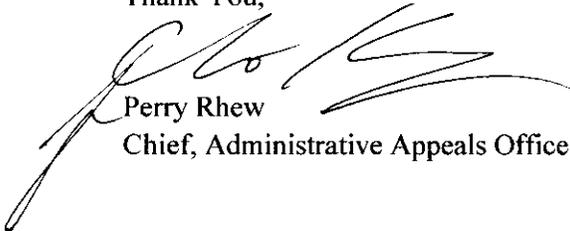
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank You,



Perry Rhew  
Chief, Administrative Appeals Office

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

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

The director determined that the date of birth listed on her certificate of citizenship, August 30, 2006, is the date provided at the time she obtained U.S. 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's father maintains that her date of birth is June 24, 2006. *See* Letter in Support of Notice of Appeal, dated Feb. 22, 2010. He explains, in relevant part, that the initial adoption paperwork indicated an incorrect date of birth. *Id.* In support of this assertion, the applicant submits, among other things, an affidavit from the General Counsel of the applicant's adoption agency; the applicant's Michigan birth certificate; the applicant's original Guatemalan birth certificate; and a pediatrician's report.

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 adoptive 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 applicant acknowledges that the error in the applicant's certificate is not the result of clerical error attributable to U.S. Citizenship and Immigration Services (USCIS). *See* Letter in Support of Notice of Appeal. Additionally, the record contains numerous documents indicating the applicant's date of birth as August 30, 2006, including: a Guatemalan birth certificate; the Application for Immigrant Visa and Alien Registration; the Medical Examination Form; the Vaccination Documentation Worksheet; the Petition to Classify Orphan as an Immediate Relative (Form I-600), the Determination on Child for Adoption (Form I-604) and related adoption documentation; and the applicant's Guatemalan passport.

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. *See* 8 C.F.R. § 338.5. The applicant's appeal must therefore be dismissed.

**ORDER:** The appeal is dismissed.