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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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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER

Date:

JAN 06 2011

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

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 \$630. 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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Iran who became a U.S. citizen upon his naturalization on July 27, 1999. The applicant seeks to amend his certificate of naturalization to change the date of birth on the certificate.

The service center director determined that the date of birth in the applicant's certificate of naturalization conforms to the date of birth stated on his Form N-400, Application for Naturalization, and in his immigration records. The application for a replacement certificate was accordingly denied.

On appeal, the applicant, through counsel, maintains that the date of birth on his certificate is incorrect. The applicant states that his correct date of birth is September 23, 1929 and not April 12, 1929, as indicated on his certificate of naturalization.

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 naturalization. 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 limited circumstances not applicable here.

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 clerical error in the preparation of the applicant's certificate. The applicant's Form N-400, Application for Naturalization, lists April 12, 1929 as his date of birth. The applicant's immigration records, including the Form I-140, Petition for Prospective Immigrant Employee, filed on his behalf, his Immigrant Visa Application and lawful permanent resident card, list April 12, 1929 as the applicant's date of birth.

On appeal, the applicant states that his prior attorney and immigration preparer made a mistake in listing April 12, 1929 as his date of birth. The applicant indicates that his birth certificate, foreign passport and social security card list September 23, 1929 as his date of birth.

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 naturalization where the facts conform to the information on the Form N-400, Application for Naturalization, or where there was no clerical error on the part of USCIS. The applicant's appeal must therefore be dismissed.

**ORDER:** The appeal is dismissed.