

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



E₃

DATE: MAY 10 2011

Office: NEBRASKA SERVICE CENTER

FILE: 

IN RE: Applicant: 

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 \$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 India who became a U.S. citizen upon her naturalization on July 1, 2004. The applicant seeks to amend her 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 her Form N-400, Application for Naturalization, and in her immigration records. The application for a replacement certificate was accordingly denied.

On appeal, the applicant maintains that the date of birth on her certificate is incorrect. The applicant states that her correct date of birth is October 5, 1947 and not October 25, 1947, as indicated on her 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 October 25, 1947 as her date of birth.

On appeal, the applicant submits a copy of her Indian birth certificate and passport indicating that October 5, 1947 is her date of birth. As noted above, neither the Act nor the regulations, provide for 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.