

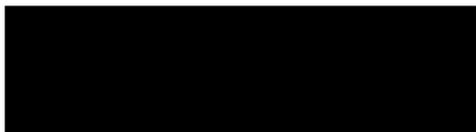
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

PUBLIC COPY



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



E-3

DATE: **MAY 12 2011** Office: TEXAS SERVICE CENTER FILE:

IN RE: Applicant:

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, Texas 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 October 28, 1999. The record indicates that the applicant petitioned for a name change to [REDACTED] in the context of his naturalization proceedings. The applicant seeks to amend his certificate of naturalization to change the name reflected on the certificate to [REDACTED]

The service center director determined that the name on the applicant's certificate of naturalization conforms to the name 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 his name should be listed as [REDACTED]. See Appeal Brief. The applicant maintains that the name [REDACTED] is an existing name and that he is not required to obtain a court order to change his name from [REDACTED], the name listed on his certificate, to his desired name.

Section 343 of the Act, 8 U.S.C. § 1454, and the corresponding regulations at 8 C.F.R. § 343a, at most, 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 record shows that the applicant petitioned for a name change to [REDACTED] in the context of his naturalization proceedings and was advised that his naturalization certificate would be issued in that name. The applicant signed his Certificate Preparation Sheet and Oath Declaration with the name [REDACTED].¹

As noted above, neither the Act nor the regulations, provide for any authority for U.S. Citizenship and Immigration Services (USCIS) to change the name on a certificate of naturalization where the facts conform to the information on the 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.

¹ If the applicant wishes to resume using the name [REDACTED] he would be required to petition the court for a name change because, contrary to counsel's claim, that name is not his existing legal name.