prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

E3

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: ATLANTA, GA Date: OCT 7 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338 of the Immigration and Nationality Act, 8 U.S.C. § 1149.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is a native of Belarus and a naturalized citizen of the United States. He seeks to have his Certificate of Naturalization corrected under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, to reflect a change in his name from '[redacted] to '[redacted]

The district director reviewed the applicant's record and determined that his request was not justifiable. The application was denied accordingly.

The applicant asserts that the district director erred in not changing the last name on his Certificate of Naturalization from [redacted] to [redacted] The applicant asserts that the documentation submitted on appeal (documents reflecting his parents' full names, as well as a new birth certificate translation and documentation reflecting that his resident alien card contained the name [redacted] establish that the correct spelling of his name is '[redacted] rather than [redacted].

Section 338 of the Act provides the statutory authority relating to the contents of a Certificate of Naturalization.

The specific regulations regarding the execution and issuance of Certificates of Naturalization are contained in 8 C.F.R. § 338.5, and provide, in part, that:

> (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 own name or date of birth at the time of naturalization.

Based on the evidence contained in the record, the applicant has not established that his Certificate of Naturalization contains Immigration and Naturalization (INS, now, Citizenship and Immigration Service, CIS) related clerical errors, or that it did not conform to the facts contained in the record or on his application for naturalization. The AAO notes that the translated birth certificate submitted by the applicant for INS refugee processing purposes in 1992, reflects that the applicant's last name is [redacted] The AAO notes further that the applicant's INS refugee application and the related immigration documentation contained in the record reflect that the applicant's last name is '[redacted]. Moreover, based on the evidence contained in the record, it appears the INS misspelled the applicant's last name on his resident alien card. Accordingly, the AAO finds that the district director correctly determined there are no provisions under 8 C.F.R. § 338.5 to justify or to allow for a CIS correction to the applicant's Certificate of Naturalization.

Based on the reasoning set forth above, the appeal will be dismissed.

ORDER: The appeal is dismissed.