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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date:

DEC 17 2007

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Replacement Naturalization/Citizenship Document under Section 343
of the Immigration and Nationality Act, 8 U.S.C. § 1454.

ON BEHALF OF APPLICANT:

[REDACTED]

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, 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 Brazil and a naturalized citizen of the United States. She seeks to have a new Certificate of Citizenship issued to her.

The Director reviewed the applicant's record and determined that the applicant had failed to establish that she is a citizen of the United States or that any Certificate of Citizenship or Certificate of Naturalization has ever previously been issued to her. The application was denied accordingly. *Decision of the Director*, dated March 28, 2007.

On appeal, the applicant states that she was 14 years old when she naturalized. *Form I-290B*. Counsel asserts that the applicant received derivative naturalization through her mother who naturalized on June 26, 2002 and that there was or should be a certificate of naturalization. *Attorney's statement*. Counsel further asserts that a certified copy of a court letter was submitted for passport purposes and is subsequently lost. *Id.* The record includes a copy of the applicant's mother's naturalization certificate; a copy of the applicant's U.S. passport; a copy of the applicant's resident alien card; and a copy of the applicant's birth certificate.

Section 343 of the Act provides the statutory authority relating to Documents and Copies Issued by the Attorney General. It states in pertinent part that:

- (a) If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration...

The regulation at 8 C.F.R. § 343a.1 states in pertinent part that:

- (a) Lost, mutilated, or destroyed naturalization papers. A person whose declaration of intention, certificate of naturalization, citizenship, or repatriation, or whose certified copy of proceedings under the act of June 25, 1936, as amended, or under section 317(b) of the Nationality Act of 1940, or under 324(c) of the Immigration and Nationality Act, or under the provisions of any private law, has been lost, mutilated, or destroyed, shall apply on the Form N-565 for a new paper in lieu thereof.

The AAO notes that there is no evidence in the record that the applicant applied for naturalization. Additionally, while the naturalization of the applicant's mother may qualify the applicant for derivative status, it does not automatically result in the issuance of a certificate of citizenship. The AAO observes that the applicant is seeking the issuance of a certificate of citizenship, not the replacement of a lost, mutilated, or destroyed certificate of citizenship. *Form I-290B; Form N-565*. Pursuant to the regulation at 8 C.F.R. § 341.1:

An application for a certificate of citizenship by or in behalf of a person who claims to have acquired United States citizenship under section 309(c) or to have acquired or derived United States citizenship as specified in section 341 of the Act shall be submitted on Form N-600 in accordance with the instructions thereon,

accompanied by the fee specified in § 103.7(b)(1) of this chapter. The application shall be supported by documentary and other evidence essential to establish the claimed citizenship, such as birth, adoption, marriage, death, and divorce certificates.

In that the applicant has incorrectly filed the Form N-565, Application for Replacement Naturalization/Citizenship Document rather than the Form N-600, Application for Citizenship, the appeal will be dismissed.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the applicant to establish the claimed citizenship by a preponderance of the evidence. As the applicant has filed the incorrect form, she has not met her burden in this proceeding.

ORDER: The appeal is dismissed.