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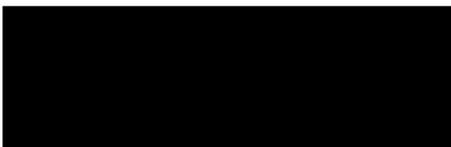
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER

Date: OCT 13 2010

IN RE: [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.

Thank You,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native of Mexico who derived U.S. citizenship through the naturalization of his mother. The applicant seeks a new certificate of citizenship, citing 8 C.F.R. § 341, claiming that the date of birth listed on the original certificate is not correct.

The director determined that the applicant failed to establish that a clerical error was made in preparing the certificate of citizenship, and that the date of birth listed on the certificate conforms to the date of birth previously provided. The application was denied accordingly.

On appeal, the applicant contends through his accredited representative that the date of birth listed on the certificate of citizenship is incorrect. *See Statement in Support of Appeal.* The applicant maintains that his correct date of birth is June 29, 1999, and not June 21, 1999, as indicated on his certificate. *Id.*

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 citizenship. 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. The statute and regulations governing certificates of citizenship do not address the possibility of errors made in the preparation of a certificate and the need for correction of such mistakes. *See* Section 341 of the Act, 8 U.S.C. §1452; 8 C.F.R. § 341. 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 certain limited circumstances. Where warranted, these regulations may be extended to certificates of citizenship.

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.

Here, the record indicates that a clerical error was made in the preparation of the applicant's certificate of citizenship because the date of birth stated on his certificate of citizenship does not conform to the date of birth stated in his identity documents and immigration file, including his records of admission and lawful permanent residency. The applicant's immigrant visa and his permanent resident card state his date of birth as June 29, 1999. The June 29, 1999 date of birth also is listed on the applicant's Mexican passport, his birth certificate, the applicant's medical records, and the *National Visa Center Post Supplement Report*.

On appeal, the applicant has established that the date of birth on his certificate of citizenship is erroneous. Although the applicant's accredited representative incorrectly listed the applicant's date of birth as June 21, 1999 on the applicant's Form N-600, all of the applicant's identity documents in the record and all of the other documents created by U.S. Citizenship and Immigration Services and the Department of State consistently state his date of birth as June 29, 1999. Accordingly, the appeal will be sustained and the matter will be returned to the service center for issuance of a replacement certificate stating the applicant's correct date of birth as June 29, 1999.

ORDER: The appeal is sustained. The matter is returned to the Nebraska Service Center for issuance of a replacement certificate of citizenship stating the applicant's correct date of birth.