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U.S. Citizenship
and Immigration
Services

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FILE:



Office: ANCHORAGE, ALASKA

Date: **AUG 30 2007**

IN RE:

Applicant:



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, Chief
Administrative Appeals Office

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

The applicant is a native of Russia and a naturalized citizen of the United States. He seeks to have his Certificate of Naturalization replaced under Section 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1454.

The District Director reviewed the applicant's record and determined that a replacement of the Certificate of Naturalization was not justified, as the replacement document had not been lost, mutilated, or destroyed. The application was denied accordingly. *Decision of the District Director*, dated December 15, 2006.

The AAO notes that the applicant is a minor and his mother has legal custody. *See Child Custody and Visitation Order, Superior Court for the State of Alaska, Third Judicial District, Anchorage*, dated August 11, 2004. On appeal, the applicant's mother stated that efforts to obtain compliance of her former spouse in connection with getting the applicant's naturalization certificate have failed. *Form I-290B*. The record includes a court order issued to the applicant's adoptive father seeking the applicant's naturalization certificate. *See Order, Superior Court for the State of Alaska, Third Judicial District, Anchorage*, entered January 17, 2007.

Section 343 of the INA states 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. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issued to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is hereby required to surrender it to the Attorney General.

Section 8 C.F.R. § 343a.1(a) provides in pertinent part:

- (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 section 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 Form N-565 for a new paper in lieu thereof.

The record offers evidence of the communication between the applicant's divorced parents regarding the location of the applicant's naturalization certificate. On appeal, the applicant's mother submits a copy of the previously noted court order, which requires the applicant's father, within 48 hours, to provide Citizenship and Immigration Services (CIS) with the original copy of the applicant's naturalization certificate or a sworn statement indicating that the certificate has been lost. *Order, Superior Court for the State of Alaska, Third Judicial District at Anchorage*, entered January 17, 2007. The record does not contain an affidavit from the applicant's father attesting to the loss of the certificate. Therefore, the record does not establish that the applicant's naturalization certificate has been lost, as required for replacement under section 343 of the Act. Accordingly, the appeal will be dismissed.

The burden of proof in these proceedings rests solely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. The applicant in the present matter has not met this burden.

ORDER: The appeal is dismissed.