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



U.S. Citizenship
and Immigration
Services

Eg

[REDACTED]

FILE:

[REDACTED]

OFFICE: NEW YORK, NY

Date: **MAY 23 2008**

IN RE:

APPLICANT:

[REDACTED]

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Sections 338 and 343 of the Immigration and Nationality Act, 8 U.S.C. §§ 1449 and 1454.

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, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, and the application will be denied.

The applicant is a native of the Iran and a naturalized citizen of the United States. The applicant seeks to correct a Certificate of Naturalization pursuant to sections 338 and 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1449 and 1454, claiming that the date of birth listed on the certificate is incorrect.

The district director determined that the certificate of naturalization reflects the applicant's correct date of birth, as represented by him under oath when he obtained his lawful permanent residency and naturalization. The application was denied accordingly.

On appeal, the applicant maintains that the date of birth listed on his certificate, and on his lawful permanent resident card, is incorrect. He maintains that he was unaware that the Farsi date on his birth certificate and Iranian passport corresponded to December 28, 1950, and not February 2, 1953.

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 pertinent 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.

The record reflects that February 2, 1953 is listed as the applicant's date of birth on his naturalization application, as well as his immigrant visa application, his lawful permanent resident card and his certificate of naturalization. The AAO notes that the date of birth on the applicant's certificate of naturalization conforms to the facts as set forth in the application for that document. Absent a clerical error, CIS is without authority to change the certificate of citizenship to reflect a date of birth other than that shown on the naturalization application. *See* 8 C.F.R. § 338.5. The appeal must therefore be dismissed, and the application denied.

ORDER: The appeal is dismissed. The application is denied.