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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**

FG



FILE: [REDACTED] Office: NEW YORK, NY Date: **AUG 17 2010**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for a Replacement Citizenship Document (Form N-565)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

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

The applicant is a native of Bermuda who acquired U.S. citizenship through her mother. The applicant claims that the date of birth listed on her certificate of citizenship is incorrect and she seeks correction of the certificate.

The district director determined that the certificate of citizenship reflects the applicant's correct date of birth, as indicated on the birth certificate she initially submitted and as represented by her under oath when she obtained U.S. citizenship. The application was denied accordingly.

On appeal, the applicant maintains that the date of birth listed on her certificate of citizenship, and on her Application for Certificate of Citizenship (Form N-600), is incorrect. She states that her date of birth is January 21, 1951, and not February 1, 1951. *See* Appeal Statement. She further maintains that she was indicated during her interview that her date of birth was in January, and not February. *Id.* The applicant further states that the discrepancy in her identification documents regarding her date of birth have made it difficult to apply for her pension. *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. At most, 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. None of these circumstances are present in the applicant's case.

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, but the applicant in this case did not naturalize, she acquired citizenship through her parent and was, accordingly, issued a certificate of citizenship, not naturalization. Even if the regulations pertaining to the correction of naturalization certificates were extended to certificates of citizenship, the applicant would not meet the requirements for a corrected certificate.

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.

In this case, the record reveals no nonconformity or clerical error in the preparation of the applicant's certificate. In this case, the applicant's date of birth is stated as February 1, 1951 on the birth certificate initially submitted with her stepfather's alien relative petition (Form I-130) filed on her behalf, on her immigrant visa and alien registration, on her Form N-600 application for a certificate of citizenship, and on her certificate of citizenship.

As noted above, neither the Act nor the regulations, provide any authority for U.S. Citizenship and Immigration Services (USCIS) to change the date of birth on a certificate of citizenship. Even if the regulations pertaining to the correction of naturalization certificates were extended to certificates of citizenship, the applicant would not meet the requirements for a corrected certificate. *See* 8 C.F.R. § 338.5. The applicant's appeal must therefore be dismissed.

ORDER: The appeal is dismissed.