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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



E<sub>3</sub>

FILE: [REDACTED]

Office: TEXAS SERVICE CENTER

Date: **OCT 22 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.

Thank You,

Perry Rhew  
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 sustained.

The applicant is a native of Vietnam who derived U.S. citizenship upon his father's naturalization. The applicant seeks a new certificate of citizenship, citing 8 C.F.R. § 338.5, claiming that the date of birth listed on the original certificate is incorrect.

The Service Center 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 indicated on the Form N-600, Application for Certificate of Citizenship. The application was denied accordingly.

On appeal, the applicant maintains that the date of birth listed on the certificate of citizenship is incorrect. *See* Statement of the Applicant. The applicant maintains that his date of birth is [REDACTED] 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 the certificate and the need for correction of such mistakes. 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.

In this case, 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 consistently stated in his immigration file, including his records of admission and lawful permanent residency. The applicant's immigrant visa application and the accompanying birth certificate state his date of birth as [REDACTED]. The [REDACTED] date of birth is also listed on the applicant's immigrant visa, his record as the accompanying child in his mother's Vietnamese passport and his permanent resident card. In addition, the record shows that on [REDACTED] the Washington Field Office acknowledged the error and annotated the back of the applicant's certificate of citizenship stating that his date of birth should be listed as [REDACTED].

On appeal, the applicant has established that the date of birth on his certificate of citizenship is erroneous. The record clearly and consistently states his date of birth as [REDACTED]. The record contains no identity document listing [REDACTED] as the applicant's date of birth and U.S. Citizenship and Immigration Services (USCIS) has already acknowledged this error. 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 [REDACTED].

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