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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

E₃



Date: Office: NEBRASKA SERVICE CENTER

FILE:

IN RE: **AUG 22 2011** Applicant:

APPLICATION: Application for Replacement Naturalization/Citizenship Certificate Document

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 \$630. 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,

Perry Rhew
Chief, Administrative Appeals Office

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

The applicant is a native of Somalia who became a U.S. citizen upon his naturalization on January 31, 2002. The applicant seeks to amend his certificate of naturalization to change the date of birth on the certificate.

The service center director determined that the date of birth on the applicant's certificate of naturalization conforms to the date of birth stated on his Form N-400, Application for Naturalization, and was confirmed under oath by the applicant during his naturalization interview on December 11, 2001 and by the applicant's refugee and immigration documents. The application for a replacement certificate was accordingly denied.

On appeal, the applicant maintains that the date of birth on his certificate is incorrect. The applicant states that his correct date of birth is January 1, 1945 and not January 1, 1958, as indicated on his certificate of naturalization.

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 naturalization. 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 limited circumstances not applicable here.

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 clerical error in the preparation of the applicant's certificate. The applicant's Form N-400, Application for Naturalization, lists January 1, 1958 as his date of birth. The applicant's refugee immigration records, including the Form I-590, Registration for Classification as Refugee, his Form I-94, Departure Record, and lawful permanent resident card, list January 1, 1958 as the applicant's date of birth. The applicant's Form G-325C, Biographical Information, lists January 1, 1958 as the applicant's date of birth, 1935 as the year of his father's birth, and 1940 as the date of his mother's birth. As noted by the director, it is unlikely that the applicant was born in 1945 when his parents were ten and five years old, respectively.

Neither the Act nor the regulations, provide for any authority for U.S. Citizenship and Immigration Services (USCIS) to change the date of birth on a certificate of naturalization where the facts conform to the information on the Form N-400, Application for Naturalization or where there was no clerical error on the part of USCIS. The applicant's appeal must therefore be dismissed.

ORDER: The appeal is dismissed.