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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: FEB 03 2012

Office: NEBRASKA SERVICE CENTER

File:

IN RE:

APPLICATION:

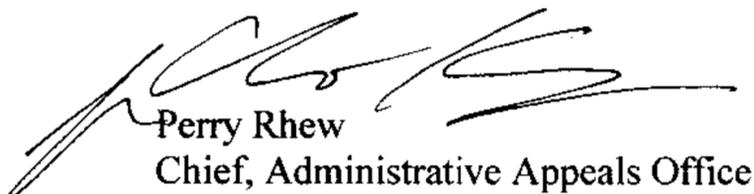
Application for Replacement Naturalization Document under Section 338 of the  
Immigration and Nationality Act, 8 U.S.C. § 1449.

ON BEHALF OF APPLICANT:

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 Director, Nebraska Service Center, denied the Application for Replacement Naturalization/Citizenship Document (Form N-565) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native of Japan and a naturalized citizen of the United States. She seeks to have her Certificate of Naturalization corrected under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, to reflect a change in her [REDACTED]

The director reviewed the applicant's record and determined that a correction to her Certificate of Naturalization was not justified. *See Decision of the Director*, dated July 1, 2011. The application was denied accordingly. On appeal, counsel asserts that the applicant's Certificate of Naturalization contains an erroneous date of birth. *See Form I-290B, Notice of Appeal*, filed July 27, 2011. In support of this assertion, counsel submits copies of documentation previously provided.

Section 338 of the Act provides the statutory authority relating to the contents of a Certificate of Naturalization. In addition, the regulations regarding the execution and issuance of Certificates of Naturalization are contained in 8 C.F.R. § 338.5, and provide, in 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 name or date of birth at the time of the naturalization.

Here, the applicant has not established that her Certificate of Naturalization does not conform to the facts shown on her application for naturalization; however, the record reflects that the immigration officer did not verify the date of birth with the applicant at the time of her naturalization interview and did not verify the date of birth with the identity documents and lawful permanent resident documentation in the file. Specifically, while the applicant originally stated on her Application for Naturalization (Form N-400) that her date of birth [REDACTED] the date of birth does not match [REDACTED] 1934 date of birth on her family register from Japan and her Immigrant Visa and Alien Registration Form (Form I-151). Additionally, the AAO observes that the record contains numerous other documents with [REDACTED] date of birth, including: an Application for Immigrant Visa and Alien Registration (Form DS-230); a Petition to Classify Alien for Issuance of Immigrant Visa (Form I-130); and a statement from the Social Security Administration.

The record does not contain any other documents besides the Form N-400 which list the [REDACTED] birth and the date of birth listed on the Form N-400 appears to be the result of a clerical error due to the differences between the Gregorian calendar and the Japanese lunar calendar which are attributable to U.S. Citizenship and Immigration Services (USCIS).

Because the majority of the documents in the applicant's file, including her record of permanent residence, identify [REDACTED] a correction of her naturalization certificate is justified pursuant to the regulation at 8 C.F.R. § 338.5. Accordingly, the appeal will be sustained and this matter will be returned to the director for the issuance of a Certificate of Naturalization with her correct date of birth.

**ORDER:** The appeal is sustained. The matter is returned to the Nebraska Service Center for issuance of a corrected Certificate of Naturalization.