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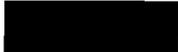
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

E3



Date: **FEB 16 2012** Office: TEXAS SERVICE CENTER FILE: 

IN RE: Applicant: 

APPLICATION: Application for Replacement Naturalization/Citizenship Certificate Document

ON BEHALF OF APPLICANT:

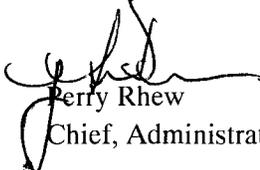
SELF-REPRESENTED

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,


Jerry 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 dismissed.

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 director determined that the certificate of naturalization reflects the date of birth reflected in the information submitted with the applicant's naturalization certificate. The application was denied accordingly.

On appeal, the applicant maintains that the year of birth listed on his certificate is incorrect. The applicant's certificate of naturalization indicates that he was born in 1965. The applicant's Form N-405, Petition for Naturalization, and Form N-400, Application for Naturalization, list 1965 as the year of the applicant's birth. The applicant claims that he was born in 1962.

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.

As noted above, 1965 is listed as the applicant's year of birth on his naturalization petition and application, naturalization certificate, and immigration record. The date of birth on the applicant's certificate of naturalization therefore conforms to the facts as set forth in the applicant's record. Section 338 of the Act does not provide authority to U.S. Citizenship and Immigration Services to change a certificate of naturalization to reflect a date of birth other than that shown on the naturalization application where, as here, there is no evidence of a clerical error. See 8 C.F.R. § 338.5. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.