



U.S. Citizenship
and Immigration
Services

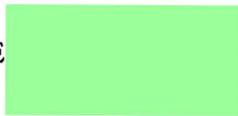
(b)(6)



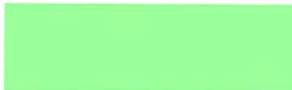
Date: **FEB 05 2013**

Office: NEBRASKA SERVICE CENTER

FILE



IN RE: Applicant:



APPLICATION: Application for Replacement Naturalization/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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting 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 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 applicant's true and correct date of birth, as indicated in her Form N-400, Application for Naturalization and verified by her under oath. The application was denied accordingly.

On appeal, the applicant maintains that the date of birth listed on her certificate is incorrect. The applicant claims that her date of birth is March 3, 1937, not January 1, 1937 as listed on her certificate of naturalization.

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.

The applicant's date of birth was unknown when she was first processed for refugee status. The applicant's immigration documents indicate that her date of birth is January 1, 1937. The applicant listed March 3, 1937 as her date of birth on the Form N-400, Application for Naturalization. The Form N-400 reflects that a correction was made to the date of birth during the naturalization interview, and the corrected date was verified by the applicant. The corrected date listed is January 1, 1937. The applicant's certificate of citizenship was therefore prepared using the January 1, 1937 date of birth.

(b)(6)

As noted above, section 338 of the Act does not allow U.S. Citizenship and Immigration Services to change a certificate of citizenship to reflect a date of birth other than that shown on the naturalization application unless there is evidence of a clerical error. *See* 8 C.F.R. § 338.5. The date of birth listed on the applicant's certificate, however, conforms to the date of birth reflected in her immigration documents and verified during the naturalization interview. The only evidence of the applicant's claimed March 3, 1937 date of birth is her Colorado identification card. The applicant has not provided any evidence that a clerical mistake was made in the preparation of her naturalization certificate. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.