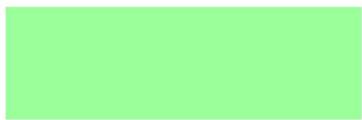


(b)(6)

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

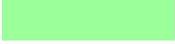


U.S. Citizenship
and Immigration
Services



Date: JUN 10 2013

Office: TEXAS 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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting 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 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 country of birth listed on the certificate is incorrect.

The director determined that the certificate of naturalization reflects the applicant's true and correct country of birth, as indicated on the Form N-400, Application for Naturalization. The application was denied accordingly. On appeal, the applicant maintains that she was born in Manihala, a village located in current Pakistan, but that she is a national of India.

The applicant's certificate of naturalization indicates that her country of former nationality is Pakistan. The applicant's Form N-400, Application for Naturalization, lists Pakistan as the applicant's country of birth, but India as her country of nationality. The applicant's immigrant visa records also list Pakistan as her country of birth, but India as her country of nationality. The applicant has submitted a passport issued by the Republic of India. The record indicates that she was born in 1935, prior to the partition of India and the establishment of Pakistan in 1947.

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) *Application.* 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, may be filed, without fee, in accordance with the form instructions.

. . . .

- (c) *USCIS-issued certificates.* If the certificate was originally issued by USCIS (or its predecessor agency), and USCIS finds that a correction was justified, the correction shall be made to the certificate and a dated endorsement made on the reverse of the certificate.
- (d) *Administrative actions.* When a correction made pursuant to paragraphs (b) or (c) of this section would or does result in mutilation of a certificate, USCIS will issue a replacement Certificate of Naturalization and destroy the surrendered certificate.

- (e) *Data change.* 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 the naturalization.

As noted above, Pakistan is listed as the applicant's country of former nationality in the applicant's naturalization certificate. Although the applicant's naturalization application and immigration record list Pakistan as the applicant's country of birth, the applicant's country of nationality is consistently listed as India. Although the regulation at 8 C.F.R. § 338.5(e) limits the correction of a name or date of birth on a certificate of naturalization, the applicant in this case seeks to amend her certificate to reflect her correct country of former nationality. The applicant's request is justified and permitted under the regulations. The applicant's country of former nationality is consistently listed as India in her immigration record and naturalization application. The regulations allow for the correction of a certificate where, as here, the facts in the certificate do not conform to the facts shown on the application. The appeal will therefore be sustained.

ORDER: The appeal is sustained.