



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **JUN 10 2013**

Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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 section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, claiming that her middle name was misspelled on her certificate.

The director determined that the certificate of naturalization reflects the applicant's true and correct name and that the requested correction was not justified. The application was denied accordingly.

On appeal, the applicant maintains that her middle name was misspelled and submits, in relevant part, a new translation of her birth certificate. The applicant admits that she was negligent in not correcting the spelling of her middle name earlier. *See* Statement of the Applicant on Form I-290B, Notice of Appeal or Motion.

The applicant's certificate of naturalization lists her middle name as [REDACTED]. The applicant's signature on the certificate corresponds to the listed middle name, as does the middle name listed on the applicant's Form N-400, Application for Naturalization, and immigrant visa and permanent residence applications. The applicant now claims that her middle name is [REDACTED].

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:

The regulation at 8 C.F.R. § 338.5 provides, in pertinent part:

- (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.

. . . .

- (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.

In this case, the record reveals no nonconformity or clerical error in the preparation of the applicant's certificate. In this case, the middle name that appears in the applicant's certificate of naturalization corresponds to the name she signed on the certificate, as well as the name provided in the course of her naturalization proceedings and the information in her immigration records.

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 name 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.