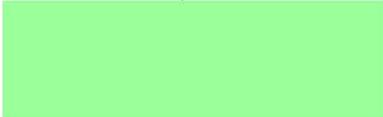




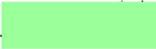
**U.S. Citizenship
and Immigration
Services**

(b)(6)

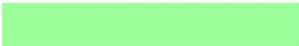


Date: **MAR 15 2013**

Office: TEXAS SERVICE CENTER

FILE: 

IN RE:

Applicant: 

APPLICATION:

Application for Replacement Naturalization/Citizenship Document, Form N-565

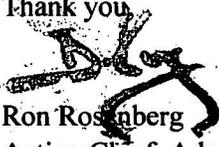
ON BEHALF OF APPLICANT:



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


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 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 provided by her in her Form N-400, Application for Naturalization and listed on her immigration documents. The application was denied accordingly.

On appeal, the applicant, through counsel, maintains that the date of birth listed on her certificate of naturalization is incorrect. The applicant claims that she was born on [REDACTED], not [REDACTED] as indicated in her certificate of naturalization. In support of her claim, the applicant notes that her naturalization application and her original lawful permanent resident card, as well as her affidavit of birth, passport and visa, all list her correct date of birth, [REDACTED]. The applicant states that her date of birth was erroneously recorded on a replacement lawful permanent resident card.

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 certificate of naturalization lists [REDACTED] as the applicant's date of birth. The [REDACTED] date of birth is listed on the applicant's replacement lawful permanent resident card, but her naturalization application, her original lawful permanent resident card, her

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passport, her U.S. visa, and her affidavit of birth list [REDACTED] as the applicant's date of birth.

The date of birth on the applicant's certificate of naturalization, [REDACTED] does not conform to the facts as set forth in the applicant's Form N-400 or immigration records. Section 338 of the Act requires that the date of birth listed on the certificate of naturalization reflect the date provided in the naturalization application. Moreover, the statute allows U.S. Citizenship and Immigration Services to change a certificate of naturalization to reflect a correct date of birth where, as here, there is evidence of a clerical error. *See* 8 C.F.R. § 338.5. The appeal will therefore be sustained.

ORDER: The appeal is sustained.