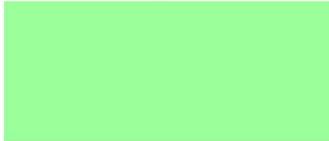


(b)(6)

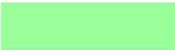
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



Date: FEB 04 2014 Office: TEXAS SERVICE CENTER

FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Replacement Naturalization Document under Section 338 of the
Immigration and Nationality Act, 8 U.S.C. § 1449

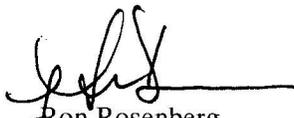
ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Texas Service Center denied the Application for Replacement Naturalization/Citizenship Document (Form N-565) and the matter came before the Administrative Appeals Office (AAO) on appeal. The AAO dismissed the appeal, and the applicant filed a motion to reopen and/or reconsider the AAO's decision. The AAO granted the applicant's motion, but affirmed its prior decision to dismiss the appeal. The AAO will *sua sponte* reopen these proceedings pursuant to 8 C.F.R. § 103.5(a)(5)(i) to withdraw its prior decisions and sustain the appeal.

The applicant is a native of Turkey and a naturalized citizen of the United States. He seeks to have his certificate of naturalization corrected under section 338 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1449, to reflect a change in his date of birth from November 21, 1957 to November 23, 1957.

Section 338 of the Act provides the statutory authority relating to the contents of a certificate of naturalization. In addition, the regulations regarding the execution and issuance of certificates of naturalization are contained in 8 C.F.R. § 338.5, and provide, in 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.

* * *

- (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 name or date of birth at the time of the naturalization.

The AAO acknowledges that the record contains several documents signed by the applicant stating his date of birth as November 21, 1957, including his Application for Naturalization (Form N-400) and his Permanent Resident Card (Form I-551). Nonetheless, the record contains other documents predating the applicant's naturalization that contain the November 23, 1957 date of birth, including: the applicant's birth and marriage certificates submitted in conjunction with his application for an immigrant visa; the applicant's son's birth certificate; the applicant's medical and immunization forms submitted with his immigrant visa application, and the applicant's school records. The record also contains copies of the applicant's Turkish passport and identification card listing November 23, 1957 as the applicant's date of birth.

Because, as a result of clerical error, the date of birth listed on the applicant's certificate of naturalization does not conform to the facts in the record, a correction of the applicant's

certificate of naturalization is warranted pursuant to the regulation at 8 C.F.R. § 338.5. Accordingly, the AAO withdraws its prior decisions and sustains the appeal.

ORDER: The AAO withdraws its prior decisions, dated February 19, 2013 and August 12, 2013, and returns the matter to the Texas Service Center for issuance of a corrected certificate of naturalization that reflects a November 23, 1957 date of birth.