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



U.S. Citizenship  
and Immigration  
Services

Date: FEB 28 2014 Office: NEBRASKA SERVICE CENTER

FILE

IN RE:

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

ON BEHALF OF APPLICANT:

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,

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

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center (director), denied the Application for Replacement Naturalization/Citizenship Document (Form N-565), and the matter now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the matter will be returned to the director for issuance of a replacement certificate of naturalization.

*Pertinent Facts and Procedural History*

The applicant is a native of China, and a naturalized citizen of the United States. She seeks to have her 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 her date of birth from [REDACTED] 1959 to [REDACTED] 1955.

The director reviewed the applicant's record and determined that a correction to her certificate of naturalization was not justified. Specifically, the director noted that the applicant had claimed the [REDACTED] 1959 as her date of birth at the time of naturalization. The application was denied accordingly. On appeal, the applicant requests that her certificate of naturalization be changed to conform to her correct date of birth, which is [REDACTED] 1955.

*Applicable Law*

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.

\* \* \*

*Analysis*

Based on the evidence in the record, the applicant has established that her certificate of naturalization, which states that her date of birth is [REDACTED] 1959, contains clerical errors attributable to U.S. Citizenship and Immigration Services (USCIS). The birth date on the applicant's certificate of naturalization does not conform to the birth date originally stated in her Application to File Petition for Naturalization (Form N-400). The applicant's entire immigration record, including the Memorandum of Creation of Record of Lawful Permanent Residence (Form I-181), lists [REDACTED] 1955 as the applicant's date of birth.

The AAO notes that the date listed on the Petition for Naturalization (Form N-405) is [REDACTED] 1959, the date corresponding to the date listed in the certificate of naturalization. However, the date listed on the Application to File Petition for Naturalization (Form N-400) is [REDACTED] 1955, a

date that does not correspond to either the certificate of naturalization or the rest as the applicant's immigration record. Thus, it appears that there was a clerical error in the preparation of the applicant's certificate and a correction is justified pursuant to the regulation at 8 C.F.R. § 338.5. The applicant's date of birth, as indicated in her immigration record, is [REDACTED] 1955. Accordingly, this matter will be returned to the director for the issuance of a certificate of naturalization listing [REDACTED] 1955 as the applicant's date of birth.

*Conclusion*

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

**ORDER:** The appeal is sustained. The matter is returned to the director for issuance of a replacement certificate of naturalization, listing [REDACTED] 1955 as the applicant's date of birth.