



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **JAN 15 2014** Office: NEBRASKA SERVICE CENTER

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:

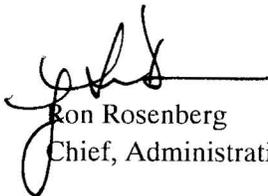
SELF-REPRESENTED

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center (the director), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Vietnam, 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 July 4, 1960, to July 4, 1950.

The director reviewed the applicant's record and determined that a correction to his Certificate of Naturalization was not justified. Specifically, the director noted that the applicant had claimed the date of birth on the certificate at the time of naturalization. The application was denied accordingly. On appeal, the applicant requests that his Certificate of Naturalization be changed to conform to his claimed date of birth.

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.

Based on the evidence in the record, the applicant has not established that his Certificate of Naturalization, which states that his date of birth is July 4, 1960, contains clerical errors attributable to U.S. Citizenship and Immigration Services (USCIS). Here, the birth date on the applicant's Certificate of Naturalization conforms to the birth date stated in his Application for Naturalization. Additionally, the record contains other documents with the July 4, 1960 date of birth, including: the applicant's Permanent Resident Card (Form I-551); a Memorandum of Creation of Record of Lawful Permanent Residence (Form I-181); the Registration for Classification as Refugee Form (Form I-590); a California Driver's License; and a Form G-325A, Biographic Information Sheet.

The AAO acknowledges that the record includes several documents showing the applicant's date of birth to be July 4, 1950, including: a certified abstract of birth and birth certificate; a copy of the biographical page of the applicant's U.S. passport; and a California Superior Court Order. However, because the applicant acknowledged his birth date as July 4, 1960, on his naturalization application

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NON-PRECEDENT DECISION

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and there was no clerical error in the preparation of the applicant's certificate, USCIS has no authority to change the applicant's Certificate of Naturalization. *See* 8 C.F.R. § 338.5.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.