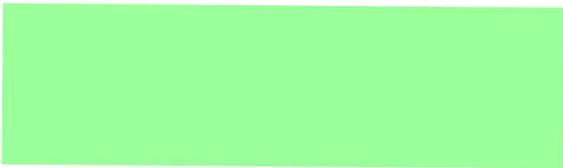




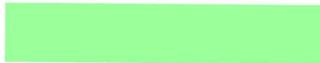
U.S. Citizenship
and Immigration
Services

(b)(6)



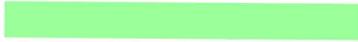
Date: MAR 20 2014

Office: NEBRASKA SERVICE CENTER



IN RE:

Applicant:



APPLICATION:

Application for Replacement Citizenship Certificate Pursuant to Section 343 of the Immigration and Nationality Act, 8 U.S.C. § 1454

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 (the director), denied the Application for Replacement Naturalization/Citizenship Document (Form N-565). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

Pertinent Facts and Procedural History

The applicant seeks to correct a certificate of citizenship pursuant to section 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1454, claiming that the date of birth listed on the certificate is incorrect.

The director determined that the certificate of citizenship reflects the applicant's true and correct date of birth and denied the application. On appeal, the applicant, through counsel, maintains that the date of birth listed on her certificate should be amended to reflect her corrected date of birth, as indicated on a court order issued by the Superior Court of California, County of Sonoma. *See* Appeal Brief and supporting documentation. Additionally, counsel submits a supplemental brief stating that a correction of the applicant's certificate is required pursuant to section 320(c) of the Act, 8 U.S.C. § 1431(c). *See* Supplemental Brief.

Applicable Law

On January 3, 2014, Congress amended section 320 of the Act to include the following:

(c) A Certificate of Citizenship or other Federal document issued or requested to be amended under this section shall reflect the child's name and date of birth as indicated on a State court order, birth certificate, certificate of foreign birth, certificate of birth abroad, or similar State vital records document issued by the child's State of residence in the United States after the child has been adopted or readopted in that State.

See Accuracy for Adoptees Act, P.L. 113-74, 127 Stat. 1212 (January 16, 2014).

Section 343 of the Act, 8 U.S.C. § 1454, and the corresponding regulations at 8 C.F.R. § 343a allow for issuance of a replacement certificate if the original document has been lost, mutilated or destroyed; or if a citizen's name has changed after naturalization due to marriage or a court order. *See* Section 343(a), (c) of the Act; 8 C.F.R. § 343a.1. The statute and regulations governing certificates of citizenship do not address the possibility of errors made in the preparation of a certificate and the need for correction of such mistakes. *See* Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 341. Nevertheless, U.S. Citizenship and Immigration Services (USCIS) may issue a replacement certificate of citizenship if the applicant can establish that USCIS made a clerical error when preparing the certificate.

Analysis

The applicant was the subject of a full and final adoption in Kazakhstan and immigrated to the United States in 2003. She was subsequently removed from her adoptive parents' home and became a ward of the state. See California Juvenile Court Dependency Order. The Department of Human Services petitioned the court for an order establishing her date of birth as March 24, 1997. In 2010, the court entered such an order. See Order dated May 5, 2010. The applicant also obtained a "Court Order Delayed Registration of Birth," from the State of California, listing her date of birth as March 24, 2007. See Registration dated June 30, 2010.

Counsel's reliance on section 320(c) of the Act is misplaced. Although the applicant obtained a California court order establishing her date of birth as March 24, 1997, her adoption was finalized in her native country (Kazakhstan) and not in California. Section 320(c) of the Act requires, as noted above, that the court order changing the date of birth be "issued by the child's State of residence in the United States after the child has been adopted or readopted in that State."

While section 320(c) of the Act does not apply to the present matter, the issuance of a replacement certificate of citizenship is justified based upon clerical error attributable to USCIS. When filing her Application for Certificate of Citizenship, the applicant indicated her date of birth as March 24, 1995. However, she included with the Form N-600 a copy of her dependency order, the court order changing her date of birth, and her delayed birth registration. The adjudicator should have corrected the date of birth on the Form N-600 upon review of the California court order that officially recognized the changed date of birth. Accordingly, the appeal will be sustained and the matter will be returned to the director for the issuance of a certificate of citizenship, listing March 24, 1997 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 and the matter is returned to the director for issuance of a replacement certificate of citizenship.