



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[REDACTED]

Date: MAR 21 2014 Office: NEBRASKA SERVICE CENTER [REDACTED]

IN RE: [REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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,

Hon Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Application for Replacement Citizenship/Naturalization Document (N-565) 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 sustained.

*Pertinent Facts and Procedural History*

The applicant is a native of Mexico 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 May 3, 1953, to March 3, 1953.

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 provided the May 3, 1953 date of birth during the naturalization process. The application was denied accordingly. On appeal, the applicant requests that his certificate of naturalization be changed to list March 3, 1953 as his date of birth.

*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*

The applicant has established that his certificate of naturalization does not conform to the facts shown on his application for naturalization. Specifically, the applicant originally stated on his Application for Naturalization (Form N-400) that his date of birth is March 3, 1953. It appears that a redlined change was made from March to May at the time of the applicant's naturalization interview; however, it appears that the change was made to conform to an erroneous date of birth reflected on the applicant's permanent resident card. The March 3, 1953 date is listed in the applicant's immigrant visa application, but also redlined and changed to May 3, 1953. The applicant's birth certificate indicates that the applicant was born in March, and that his birth was registered in May. The evidence in the record suggests that the use of the May 3, 1953 date of birth was the result of a clerical error in the preparation of the applicant's immigrant visa registration.

Because the applicant originally stated his birth date as March 3, 1953 on his naturalization application and the evidence supports a March 3, 1953 date of birth, a correction of his naturalization certificate is justified pursuant to the regulation at 8 C.F.R. § 338.5. Accordingly, this matter will be returned to the director for the issuance of a certificate of naturalization listing March 3, 1953 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 Nebraska Service Center for issuance of a corrected certificate of naturalization.