



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

Date: **MAR 24 2014** Office: NEBRASKA SERVICE CENTER [Redacted]

IN RE: [Redacted]

APPLICATION: Application for Replacement Naturalization Document under Section 343 of the Immigration and Nationality Act, 8 U.S.C. § 1454

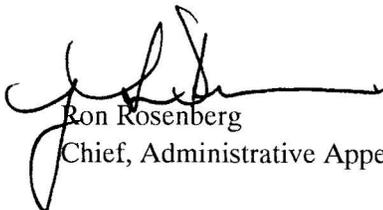
ON BEHALF OF APPLICANT:
[Redacted]

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. 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 Director of the Nebraska Service Center (the director) denied the Application for Replacement Naturalization/Citizenship Document (Form N-565), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Pertinent Facts and Procedural History

The applicant is a native of Mexico. She claims to have naturalized in 1997, and seeks a replacement certificate of naturalization pursuant to 343 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1454, stating that her certificate was lost.

The director reviewed the applicant's record and determined that she failed to appear at her naturalization oath ceremony and was therefore never properly admitted to U.S. citizenship. Thus, the applicant's request for a new naturalization certificate was denied.

On appeal, the applicant, through counsel, states that she naturalized in 1997. In support of her claim, the applicant submits a copy of a "case inquiry print out" purportedly demonstrating that she was naturalized on February 14, 1997.

Applicable Law

Section 343 of the Act provides the statutory authority relating to the replacement of a lost certificate of naturalization. The regulations regarding the replacement of lost certificates of naturalization are contained in 8 C.F.R. § 343a.1(a) and provide in pertinent part that: "[a] person whose . . . certificate of naturalization . . . has been lost, mutilated, or destroyed, must apply on the form designated by [U.S. Citizenship and Immigration Services (USCIS)] with the fee . . . and in accordance with the form instructions."

Section 337(a) of the Act provides that "a person who has applied for naturalization shall, in order to be and before being admitted to citizenship, take in a public ceremony before the [Secretary of Homeland Security] or a court with jurisdiction . . . an oath."

Analysis

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The evidence in the record establishes that the applicant applied for naturalization by filing a Form N-400, Application for Naturalization, in 1996. The application for naturalization was approved on October 18, 1996, and the applicant was scheduled for her first oath ceremony on December 6, 1996; however, she failed to appear on that date. The applicant was again scheduled for another oath ceremony on February 14, 1997 and, again, failed to appear. On February 26, 1998, a notice of intent to dismiss the applicant's naturalization application was issued on the ground that the applicant had not appeared at her oath ceremony. On December 10, 1998, absent any response from the applicant, her naturalization application was dismissed for lack of prosecution.

Because the record contains no evidence that the applicant attended an oath ceremony, she was thus not properly admitted to U.S. citizenship. The applicant has submitted no proof of her attendance at the oath ceremony or of her receipt of a naturalization certificate, and the “case inquiry print out” submitted on appeal does not overcome the evidence of record. As the applicant did not take an oath in a public ceremony under section 337(a) of the Act, she is ineligible for a replacement certificate under section 343 of the Act, and the appeal will be dismissed.

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 not been met.

ORDER: The appeal is dismissed. The application remains denied.