



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **JUN 08 2015**

FILE: [REDACTED]  
APPLICATION RECEIPT #: [REDACTED]

IN RE: [REDACTED]

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

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

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

The applicant is a native of Thailand 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 [REDACTED] 1956, to [REDACTED] 1949.

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 amended to conform to his date of birth listed on several government-issued documents, including certification from the Royal Thai Consulate General, a translated Thai birth certificate, a translated Thai school record, a copy of the data page from a Thailand passport, and a U.S. Social Security Statement.

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 [REDACTED] 1956, contains clerical errors attributable to U.S. Citizenship and Immigration Services (USCIS) or the U.S. Immigration and Naturalization Service (legacy INS) which preceded it. Here, the birth date on the applicant's Certificate of Naturalization conforms to the birth date stated in his Petition for Naturalization. Additionally, we note that the record contains other documents with the [REDACTED] 1956 date of birth, including: the applicant's Request for Name Change (Form I-430A, reverse side); two Biographic Information forms (Form G-325A) signed by the applicant and dated, respectively, August 18, 1983 and August 10, 1988; a Memorandum of Creation of Record of Lawful Permanent

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Residence (Form I-181); an Application for Status as Permanent Resident (Form I-485); an Immigrant Petition (Form I-130); and a Form I-94 Arrival-Departure Record.

We acknowledge that the record includes several documents showing the applicant's date of birth to be [REDACTED] 1949. However, the totality of the relevant evidence in the applicant's administrative record does not support a finding that USCIS made a clerical error when placing the [REDACTED] 1956 date of birth on the applicant's certificate of naturalization. In addition to the numerous documents supporting the [REDACTED], 1956, date of birth, the applicant acknowledged this as his date of birth during the naturalization process. Neither the statute nor the regulations allows USCIS to correct a date of birth on a naturalization certificate for any reason but clerical error attributable to USCIS. *See* 8 C.F.R. § 338.5(a).

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.