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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

PUBLIC COPY

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FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: JUL 0 8 2010

IN RE: Applicant: [redacted]

APPLICATION: Application for a Replacement Citizenship Document (Form N-565)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The applicant is a native of Pakistan who acquired U.S. citizenship through his mother. The applicant seeks to amend his certificate of citizenship to correct the name and date of birth on the certificate.

The service center director determined that the name and date of birth in the applicant's certificate of citizenship conform to the name and date of birth stated on his Form N-600, Application for Certificate of Citizenship, and in his immigration records. The application for a replacement certificate was accordingly denied.

On appeal, the applicant, through his father, maintains that the name and date of birth on his certificate are incorrect. The applicant's father claims that the applicant's date of birth is February 3, 1999 not January 1, 1999; and that his name is as stated on his certificate of citizenship.

Section 343 of the Act, 8 U.S.C. § 1454, and the corresponding regulations at 8 C.F.R. § 343a provide no authority to change the date of birth on a certificate of citizenship. At most, the statute and regulations 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. None of these circumstances are present in the applicant's case.

Section 338 of the Act, 8 U.S.C. § 1449, and the regulations promulgated thereunder, at 8 C.F.R. § 338.5, permit the correction of a certificate of naturalization in certain limited circumstances, but the applicant in this case did not naturalize, he derived citizenship through his mother and was, accordingly, issued a certificate of citizenship, not naturalization. Even if the regulations pertaining to the correction of naturalization certificates were extended to certificates of citizenship, the applicant would not meet the requirements for a corrected certificate.

The regulation at 8 C.F.R. § 338.5 provides, in pertinent part:

> (a) 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, Form N-565, without fee, may be filed by the naturalized person.
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> . . .
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> (e) 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.

In this case, the record reveals no clerical error in the preparation of the applicant's certificate. The applicant's Form N-600, Application for Certificate of Citizenship, lists January 1, 1999 and as his date of birth and name, the same name and date of birth that are stated on his certificate of citizenship. The applicant's last name is also stated as and his date of birth as January 1, 1999 in his immigration records, including his Form I-94 arrival record, his Form I-485, application to adjust status; and his permanent resident card.

On appeal, the applicant's father resubmits a copy of a translation of the applicant's birth certificate which states his date of birth as February 3, 1999, but does not explicitly state his last name. The translation was submitted without a copy of the original birth certificate, as required by the regulation at 8 C.F.R. § 103.2(b)(3). In addition, the birth certificate appears to have been issued on August 3, 1999, after the applicant's Form I-590, application for refugee classification, was approved, but before his Form I-485 was filed. The applicant's father does not explain why he did not attempt to have the applicant's name and date of birth corrected at the time of his adjustment of status in 2001 or earlier.

As noted above, neither the Act nor the regulations, provide for any authority for U.S. Citizenship and Immigration Services (USCIS) to change the date of birth on a certificate of citizenship or to issue a corrected certificate reflecting a name change not due to clerical error, marriage or a court order. The applicant's appeal must therefore be dismissed.

ORDER: The appeal is dismissed.