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**U.S. Citizenship
and Immigration
Services**

E3

FILE:

Office: ST. PAUL, MINNESOTA

Date: **MAR 15 2007**

IN RE:

APPLICATION: Application for Replacement Naturalization/Citizenship Document under Section 338
of the Immigration and Nationality Act, 8 U.S.C. § 1149.

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, St. Paul, Minnesota. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was born in Hong Kong, was a national of the United Kingdom, and is a naturalized citizen of the United States. She seeks to have her 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 her country of nationality from the People's Republic of China to the United Kingdom.

The District Director reviewed the applicant's record and determined that her request was not justifiable. The application was denied accordingly.

On appeal, the applicant asserts that her Certificate of Naturalization contains an erroneous country of nationality. The applicant submits expired passports from the United Kingdom showing that she was considered to be a British National Overseas.

Section 338 of the Act provides the statutory authority relating to the contents of a Certificate of Naturalization. In addition, the specific 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) 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.

Although the applicant listed the United Kingdom as her country of nationality on all documents previously submitted to the Service (now CIS) prior to her naturalization, the AAO finds that a clerical error was not made. The issue in this case is whether the applicant formerly had citizenship in the United Kingdom. The AAO finds that she did not. The applicant was considered to be a British National Overseas (BNO). *See United Kingdom passports issued to the applicant.* According to the U.S. Department of State, a British National Overseas passport identifies the bearer's nationality as "British National (Overseas)." It is issued to persons with the right of abode in Hong Kong whom British authorities consider British nationals, but who lack the right of abode in the United Kingdom. The BN(O) does not confer the same rights as a regular United Kingdom passport. For example, BN(O) bearers do not have the right to live in Great Britain, nor are they eligible for the U.S. Visa Waiver Program. As different rights are given to British Nationals Overseas as compared to citizens of the United Kingdom, the AAO finds that the applicant's former country of nationality was not the United Kingdom. The District Director was correct in noting that the United States recognized the Government of the People's Republic of China as the sole legal government of China and acknowledged the Chinese position that there is but one China, and Hong Kong is currently part of China. As such, the AAO finds the applicant to have had the former nationality of the People's Republic of China.

ORDER: The appeal is dismissed.