

1 Under 8 CFR § 334.16, the district court can order the
2 amendment of a naturalization certificate issued prior to 1990 when
3 the alleged error is not clerical. Kouanchao v United States
4 Citizenship and Immigration Services, 358 F Supp 2d 840, 843 (D
5 Minn, 2005); In re Lee, 2007 WL 926501, *2 (ND Cal March 26, 2007).
6 Cheng bears the burden to demonstrate that November 4, 1944 is her
7 true date of birth. Kouanchao, 358 F Supp 2d at 841. The court
8 cannot correct a petitioner's deliberate falsehoods. See In re
9 Hennig, 248 F 990, 991 (ED NY 1918).

10 In her petition, Cheng explains why she believed her date
11 of birth to be September 4, 1946. Cheng's mother recorded her
12 birth date by hand, and someone misread the sloppily-written 4 to
13 be a 6. Doc #1. Ever since, Cheng believed her date of birth to
14 be in 1946. Id. Further, Cheng asserts her birthday was not
15 translated from the Chinese lunar calendar and should be November 4
16 rather than September 19. Id. In 1998, Cheng learned of the
17 Chinese lunar calendar discrepancy and went to China to obtain a
18 copy of her birth certificate. Id. The official birth certificate
19 lists her birth year as 1944, not 1946. Doc #1 Exh 1. Cheng
20 states that her birth certificate matches her Chinese school
21 records but does not provide a copy of those records. Doc #1.

22 Prior to 1998, Cheng consistently listed her date of
23 birth as September 19, 1946. Her petition for adjustment of
24 status, CAR 52, petition for immediate relative visa, CAR 46,
25 lawful permanent resident application, CAR 40, marriage
26 certificate, CAR 49, and petition for naturalization, CAR 32-37,
27 all list her date of birth as September 19, 1946. After Cheng
28 discovered birth year error and the lunar calendar error in 1998,

1 she attempted to change her records to reflect what she alleges is
2 her true date of birth. Doc #1. The Social Security
3 Administration has changed Cheng's date of birth to November 4,
4 1944 in its records. Doc #1 Exh 4.

5 Here, the court finds Cheng's testimony regarding the
6 error's origin to be credible and further supported by her verified
7 Chinese birth certificate. While the government points out that
8 Cheng repeatedly swore her date of birth as September 19, 1946,
9 this fact is consistent with Cheng's allegation that she was not
10 aware of the error until 1998. The record does not indicate any
11 fraudulent activity on the part of Cheng. Cheng will not receive
12 any additional benefits resulting from the changed date of birth,
13 because the Social Security Administration already accepted her
14 birth year as 1944. Kouanchao, 358 F Supp 2d at 843. At most,
15 Cheng will receive consistency among her vital documents. The
16 court is satisfied that Cheng's mistake in swearing her date of
17 birth as September 19, 1946 was honest and that her true date of
18 birth is November 4, 1944.

19 Accordingly, the court GRANTS Doc #1, Cheng's petition to
20 amend her certification of naturalization. USCIS shall issue an
21 amended certificate of naturalization stating that petitioner
22 Magdalen Cheng's date of birth is November 4, 1944.

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24 IT IS SO ORDERED.

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26 

27 VAUGHN R WALKER
28 United States District Chief Judge