



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25728165

Date: APR. 21, 2023

Appeal of Nebraska Service Center Decision

Form N-565, Application for Replacement Naturalization/Citizenship Document

The Applicant seeks a replacement Certificate of Naturalization with a different date of birth. 8 C.F.R. § 338.5.

The Director of the Nebraska Service Center denied the application, concluding that the Applicant had not shown that the date of birth listed on her Certificate of Naturalization was incorrect based on a clerical error that U.S. Citizenship and Immigration Services (USCIS) made when preparing the certificate, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

The Department of Homeland Security regulations on corrections of Certificates of Naturalization provide, in pertinent part at 8 C.F.R. § 338.5, that:

- (a) [W]henver 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) [T]he correction will not be deemed to be justified where the naturalized person later alleges that the . . . date of birth which the applicant stated to be [their] correct . . . date of birth at the time of naturalization was not in fact [their] . . . date of birth at the time of the naturalization.

II. ANALYSIS

In the record before the Director, the Applicant claimed that she was born in El Salvador in [redacted] 1975, rather than on the [redacted] 1975 date of birth printed on her April 2006 Certificate of Naturalization. According to the Applicant, she had included copies of identification documents with her correct date of birth in [redacted] 1975 when she submitted her Form N-400 application, but the USCIS officer had incorrectly listed a [redacted] 1975 date of birth on her Certificate of Naturalization. She provided the Director a copy of her Salvadorean birth certificate and a partial copy of her expired Salvadorean passport issued in 2000, each reflecting that her date of birth is in [redacted] 1975. The Director denied the Form N-565, concluding that the Applicant had not shown that the Certificate of Naturalization can be reissued with an amended date of birth because she had not demonstrated that the date of birth on it is incorrect based on a USCIS clerical error made when preparing the certificate.

On appeal, the Applicant contends that a correction to the date of birth on her Certificate of Naturalization is justified because USCIS had incorrectly listed the [redacted] 1975 date of birth, whereas the Applicant claims that she had provided evidence to show that her date of birth is in [redacted] 1975.

The record reflects that when the Applicant was naturalized as a U.S. citizen in 2006, she was issued a Certificate of Naturalization showing that she was born in [redacted] 1975. The [redacted] 1975 date of birth on the Certificate of Naturalization conforms to the date of birth on the Applicant's: (1) Form N-400, Application for Naturalization; and (2) Permanent Resident Card (showing she became a lawful permanent resident in 1992), a copy of which she had included with her Form N-400. Moreover, in March 2006, she initialed a name change request on the Certificate Preparation Sheet and Oath Declaration sheet, which included the [redacted] 1975 date of birth, and on the day the Applicant naturalized in April 2006, she signed the face of her Certificate of Naturalization, thereby certifying that her pre-printed personal data on the certificate, including the date of birth in [redacted] 1975, was true. Additionally, the record shows that, in 1989, the Applicant's father submitted a Form I-130, Petition for Alien Relative, on her behalf in which he asserted that the Applicant's date of birth was [redacted] 1975, and in 1992, the Applicant was issued an immigrant visa with the [redacted] 1975 date of birth. Consequently, the [redacted] 1975 date of birth on her Certificate of Naturalization conforms to the birthdate she provided on her Form N-400 and is consistent with the Applicant's own representations and evidence dating back to 1989. Accordingly, the record does not support the Applicant's claims on appeal that the date of birth on the Certificate of Naturalization was an error on the part of USCIS that she did not catch prior to signing it.

We acknowledge the Applicant now claims that her month of birth as recorded on her Naturalization Certificate is not correct and her evidence in support of her claimed birthdate. However, in the adjudication of the Applicant's request for a replacement certificate we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction for a Certificate of Naturalization only when: (1) the date of birth printed on the original certificate does not conform to the information on the naturalization application; or (2) USCIS committed a clerical error in preparing the certificate. Because the Applicant has not demonstrated that either of the two conditions occurred in her case, we cannot change the date of birth on her Certificate of Naturalization.

Moreover, regulations prohibit USCIS from making any changes to a date of birth on a Certificate of Naturalization if the applicant has completed the naturalization process and sworn to the facts of the application, including the date of birth. 8 C.F.R. § 338.5(e); 12 *USCIS Policy Manual* K.4(A), <https://www.uscis.gov/policymanual>. In this case, in 2006, the Applicant completed the naturalization process and swore to the facts of the Form N-400, including the [] 1975 date of birth printed on her Certificate of Naturalization. Consequently, the record does not show that the Applicant has established eligibility for a new Certificate of Naturalization with a different date of birth. For this reason, her Form N-565 will remain denied.

ORDER: The appeal is dismissed.