



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

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

In Re: 28191213

Date: OCT. 2, 2023

Appeal of Nebraska Service Center Decision

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

The Applicant, who naturalized as a U.S. citizen in 1988, seeks a replacement Certificate of Naturalization with a different date of birth pursuant to Title 8, Code of Federal Regulations, section 338.5 (8 C.F.R. § 338.5).

The Director of the Nebraska Service Center denied the Form N-565, concluding that the Applicant did not establish as required that a clerical error was made in preparing his original certificate or that the 1954 date of birth printed therein does not conform to the facts shown on his application for naturalization. Specifically, the Director explained that the historical contents of the Applicant's immigration file reflected that he consistently claimed the 1954 date of birth in asylum, adjustment of status, and naturalization proceedings.

On appeal, the Applicant resubmits copies of his birth certificate issued in Ethiopia in 2006 reflecting that he was born in 1948, and a 2022 letter from his healthcare provider stating that "it has come to [their] attention that [the Applicant's] real birthday is . . . 1948." The Applicant does not identify any errors in the Director's adverse decision, but requests an interview so he can explain in person the difference between the Ethiopian calendar and the calendar used in the United States.

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.

Department of Homeland Security regulations provide that 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 applicant may apply for issuance of a corrected certificate, without fee, in accordance with the form instructions. 8 C.F.R. § 338.5(a). The correction will not be deemed justified, however, where the naturalized person alleges that the date of birth which they stated to be their correct date of birth at the time of naturalization was not in fact their true date of birth. 8 C.F.R. § 338.5(e).

We acknowledge the Applicant's explanation that there is a difference between Ethiopian and United States calendars, as well as the evidence indicating that he was born in 1948. However, in adjudicating the Applicant's request for a replacement Certificate of Naturalization we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction only when: (1) the date of birth printed on the original certificate does not conform to the information on the naturalization application, or (2) U.S. Citizenship and Immigration Services made a clerical error in preparing the certificate. As the Applicant does not claim and does not submit evidence that either of these two situations occurred in this case, we cannot authorize a change to the date of birth on his Certificate of Naturalization. The Applicant's unsupported statement on the Form N-565 that the 1954 date of birth he attested to as true and correct in naturalization proceedings is "incorrect due to typographical/clerical error" is not sufficient to establish eligibility for issuance of a replacement certificate with a different date of birth. 8 C.F.R. § 338.5(e).

ORDER: The appeal is dismissed.