



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

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

In Re: 23271411

Date: JAN. 19, 2023

Appeal of Nebraska Service Center Decision

N-565, Application to Replace a Certificate of Citizenship or Naturalization

The Applicant seeks a replacement Certificate of Naturalization with a different name and date of birth pursuant to section 343(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1454(c), and the regulations at 8 C.F.R. § 338.5.

The Director of the Nebraska Service Center issued a replacement certificate to reflect the Applicant's legal name change, but denied his request for a date of birth correction explaining that the 1974 date of birth printed on his original certificate was the same date of birth he provided at the time of naturalization, and the correction was therefore not justified. 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.

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 he or she stated to be his or her correct date of birth at the time of naturalization was not in fact his or her true date of birth. 8 C.F.R. § 338.5(e).

The record reflects that the Applicant naturalized as a U.S. citizen in 2008 and was issued Certificate of Naturalization reflecting that he was born in Sudan in 1974. The Applicant does not contest that the 1974 date of birth on his Certificate of Naturalization is the date he represented and attested to in naturalization proceedings as his true and correct date of birth, nor does he claim that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in printing his certificate. He explains that because of the civil war in Sudan he was unable to obtain his birth record until he traveled there in 2012. In support, the Applicant resubmits a copy of his 2012 birth record issued by the South Sudan Ministry of Health and his 2012 nationality certificate, both of which reflect that he was born in 1978.

We acknowledge the Applicant's explanation and the supporting evidence. However, in adjudicating his 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) USCIS made a clerical error in preparing the certificate. Because the Applicant has not demonstrated that either of these two situations occurred in this case, we cannot change the date of birth on his Certificate of Naturalization. The Applicant's claim that the 1974 date of birth he attested to as true and correct in naturalization proceedings was in fact incorrect is not considered a justifiable basis for a date of birth change and issuance of a replacement certificate. 8 C.F.R. § 338.5(e).

Consequently, the Applicant has not established eligibility for a replacement Certificate of Naturalization with a different date of birth.

ORDER: The appeal is dismissed.