



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

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

In Re: 28583346

Date: OCT. 18, 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 1993, seeks a new 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).OCT

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 her original certificate or that the 1970 date of birth printed therein does not conform to the facts shown on her application for naturalization.

On appeal, the Applicant does not contest that the 1970 date of birth is the date she confirmed as her correct date of birth at the time of naturalization. She explains that she did not have proper documents when she came to the United States as a refugee years ago and was only recently able to obtain her original birth certificate, which reflects that she was born in 1967. The Applicant states that her date of birth has already been changed on other documents and she would like to correct it on her Certificate of Naturalization as well. In support, she submits copies of her original birth certificate, affidavit of birth, U.S. passport, Social Security card, and driver's license with the 1967 date of birth.

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 statement that the 1970 date printed on her original certificate is not correct, as well as the evidence indicating that she was born in 1967. 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 the record does not show, that either of these two situations occurred in this case, we cannot change the date of birth on her Certificate of Naturalization. The Applicant's claim that the 1970 date of birth she 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.