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U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-N-A-

DATE: NOV. 16, 2015

APPEAL OF NEBRASKA SERVICE CENTER DECISION

APPLICATION: FORM N-565, APPLICATION FOR REPLACEMENT NATURALIZATION / CITIZENSHIP DOCUMENT

The Applicant, a native of Iraq and naturalized citizen of the United States, seeks a replacement naturalization document. *See* Immigration and Nationality Act (the Act) § 338, 8 U.S.C. § 1449. The Director, Nebraska Service Center, denied the application. The matter is now before us on appeal. The appeal will be sustained.

The Applicant filed a Form N-565 on January 17, 2014, requesting that his last name, written as on his certificate of naturalization, be written as On October 22, 2014, the Director denied the Applicant's Form N-565, finding that the name written on the Applicant's certificate is the name provided by the Applicant at the time of his naturalization. The Director determined that, as the Applicant did not demonstrate that the name on the certificate differed from his original application for naturalization or establish that a clerical error took place, he did not satisfy the requirements of 8 C.F.R. § 338.5(e).

Section 338 of the Act provides the statutory authority relating to the contents of a certificate of naturalization. In addition, the regulations regarding the execution and issuance of certificates of naturalization are contained in 8 C.F.R. § 338.5, and provide, in pertinent part, that:

> (a) *Application.* 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 application for issuance of a corrected certificate may be filed, without fee, in accordance with the form instructions.
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> (e) *Data change.* The correction will not be deemed to be justified where the naturalized person later alleges that the name or date of birth which the applicant stated to be his or her correct name or date of birth at the time of naturalization was not in fact his or her name or date of birth at the time of the naturalization.

The Applicant filed a Form N-400, Application for Naturalization, on April 15, 2013, which was approved on July 22, 2013. On the Applicant's Form N-400, in response to part 1, section A, his current legal name was written as His name, as it appears on his permanent resident card, in response to part 1, section B, of his Form N-400 was written as . However, as the Applicant's last name is written as on his certificate of naturalization, which does not correspond with either of the names he provided on his Form N-400, the Applicant has demonstrated that his certificate does not conform to the facts shown on his application for naturalization. *See* 8 C.F.R. § 338.5(a).

The Applicant contends that due to a misunderstanding during his citizenship exam, his last name was written incorrectly on his certificate. The Applicant asserts that he told the officer that he sought to drop the hyphen from his name for the certificate, but the officer dropped the hyphen and erroneously added a space. Though the Applicant's certificate of naturalization contains the name the record does not contain a notation of his requested changes during his citizenship exam.

However, as the Applicant alleges that his correct name, is the same name that he attempted to convey to the officer during his exam, the regulations do not render the Applicant ineligible for a name correction on his certificate. Specifically, the Applicant is not alleging that the name that he provided as his correct name at the time of naturalization is not in fact his name. *See* 8 C.F.R. 338.5(e). It is noted that the record contains a Form N-649, Certificate Preparation Sheet, containing the name for the Applicant, but the form does not bear the Applicant's signature or any other indication that the Applicant approved of the information included on the document. As the evidence in the record indicates that the name on the Applicant's certificate of naturalization does not conform to the name stated on his application for naturalization, we find that a correction is justified.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met. Accordingly, the appeal will be sustained and the matter returned to the Director for the issuance of a corrected Certificate of Naturalization.

ORDER: The appeal is sustained.

Cite as *Matter of A-N-A-*, ID# 13905 (AAO Nov. 16, 2015)