U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E-S-P-

DATE: OCT. 15, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Kenya and a 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, Texas Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

In a February 16, 2013, decision, the Director reviewed the Applicant's record and determined that a correction to her Certificate of Naturalization was not justified. Specifically, the Director found that the Applicant had provided the same date of birth on her Form N-400, Application for Naturalization, as was found on her Certificate of Naturalization.

On appeal, the Applicant asserts that her Certificate of Naturalization contains an erroneous date of birth. She adds that she tried to correct her date of birth at her N-400 interview, but she was unable to do so. In support, she submits a birth certificate registered in 2012.

We conduct appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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 part, that:

> (a) 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.
>
> . . . .
>
> (e) 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.

Based on the evidence in the record, the Applicant has not established that her Certificate of Naturalization contains clerical errors attributable to U.S. Citizenship and Immigration Services (USCIS). The birth date on the Applicant's Certificate of Naturalization, 1967, conforms to the birth date stated in her Form N-400. Additionally, we observe that the record contains other documents with the 1967, date of birth, including: the Applicant's Form DS-230, Application for Immigrant Visa and Alien Registration; the Applicant's Kenyan identity card; the Applicant's Kenyan passport; and the Applicant's lawful permanent resident card.

We acknowledge that the record includes a birth certificate issued on 2012, reflecting the Applicant's date of birth as 1973. However, because the Applicant stated her birth date as 1967, on her naturalization application, and her identity documents from Kenya reflect that as her date of birth, we affirm there was no clerical error in the preparation of the certificate. As such, USCIS has no authority to change the applicant's Certificate of Naturalization. *See* 8 C.F.R. § 338.5.

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 not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of E-S-P-*, ID# 13733 (AAO Oct. 15, 2015)