



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

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

MATTER OF S-D-P-

DATE: AUG. 24, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Jamaica and a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization to reflect a name change. *See* Immigration and Nationality Act (the Act) section 343(c), 8 U.S.C. § 1454(c). A naturalized U.S. citizen may request a new Certificate if the citizen can show that his or her name has been changed by order of any court of a competent jurisdiction, or by marriage after naturalization.

The Director, Texas Service Center, denied the application. The Director concluded that the Applicant did not establish that her name had been changed by marriage or court order.

The matter is now before us on appeal. In the appeal, the Applicant resubmits copies of her marriage and divorce certificates, and requests to have her Certificate of Naturalization amended to show her surname as it appears on her U.S. passport and her State of New York driver's license.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking a replacement of Certificate of Naturalization to include her maiden name and the last name of her third spouse, from whom she is now divorced.

Section 343(c) of the Act provides:

If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the [Secretary of Homeland Security] finds the name of the applicant to have been changed as claimed, the [Secretary] shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

The regulations regarding the correction of Certificates of Naturalization in 8 C.F.R. § 338.5 provide, in part:

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(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.

....

(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.

II. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Applicant, who was born in Jamaica, was admitted to the United States in 1994. The Applicant's maiden name was [REDACTED]. She was twice-divorced, and married her third husband in 2001, taking his surname, [REDACTED]. The Applicant subsequently divorced her third husband on [REDACTED] 2007. The divorce decree authorized her to resume use of her maiden name, [REDACTED].

On June 18, 2007, the Applicant filed Form N-400, Application for Naturalization, and was interviewed in conjunction with that application on March 2008. The Applicant affirmed that her name at that time was [REDACTED] which now appears on her Certificate of Naturalization. The record indicates on the Form N-400, the Applicant listed her current legal name (Part 1, Item A) as [REDACTED]. The Form N-400 also indicates, under Part 1, Item D, that the Applicant requested to legally change her name to her [REDACTED] without the surname of her third husband. The interviewing officer concluded that the legal name change was not necessary because the Applicant's last name had already been legally changed to [REDACTED] in the divorce order. The officer amended the N-400 to reflect that the Applicant's legal name was [REDACTED]. The Applicant signed the Form N-400, and also Form N-649, Certificate Preparation Sheet And Oath Declaration, to confirm that [REDACTED] was her true and correct name.

In 2015, the Applicant submitted Form N-565, Application for Replacement Naturalization/Citizenship Document, to request a replacement Certificate of Naturalization to reflect a name change to [REDACTED]. The Director denied the application, concluding that the Applicant did not establish that her name had been changed by marriage or court order after her naturalization.

On appeal, the Applicant resubmits copies of her marriage and divorce certificates with her second and third husbands, and copies of her U.S. passport and her State of New York driver's license, which include the surname of her third husband, [REDACTED] as her surname. The Applicant requests a replacement Certificate of Naturalization to include in her name the surname of her third husband.

The entire record has been reviewed and considered.

(b)(6)

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III. ANALYSIS

The Act and the regulations allow issuance of a replacement Certificate of Naturalization to reflect a change in a name by a court order or by marriage after naturalization. The regulations further allow a corrected Certificate of Naturalization to be issued when the certificate does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate. The regulations also state that a correction to a Certificate of Naturalization 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 issue in this particular case is whether a correction to the name on the Applicant's Certificate of Naturalization is justified. Upon review, we find that a correction to the name on the Applicant's Certificate of Naturalization is not justified.

The record shows that, at the time of naturalization, the Applicant requested that her name on the Certificate of Naturalization reflect her maiden name, [REDACTED] as ordered by the court in her divorce decree. The Applicant confirmed that [REDACTED] was her correct legal last name on the Form N-400 and Form N-649.

Neither section 343(c) of the Act nor the regulation at 8 C.F.R. § 343a.1(b) allow U.S. Citizenship and Immigration Services (USCIS) to issue a replacement Certificate of Naturalization with the changed name for any reason other than to reflect a name change by order of court or by marriage subsequent to naturalization. The Applicant has not provided documentation to show that her name has been legally changed after her naturalization.

As the name the Applicant requested, and confirmed, at the time of naturalization is the same as the name reflected on her Certificate of Naturalization, we further conclude that the Applicant's Certificate of Naturalization does not contain incorrect information which resulted from USCIS clerical error. Accordingly, the Applicant is not entitled to a replacement certificate on that basis.

The regulation at 8 C.F.R. § 338.5(e) does not allow for a correction to be made to a Certificate of Naturalization where the naturalized person later alleges that the name which he or she confirmed to be the correct name at the time of naturalization was not in fact the person's name. On appeal, the Applicant contends that the name on her Certificate of Naturalization should include the surname of her third husband, [REDACTED] as evidenced on her U.S. passport and her State of New York driver's license. However, as we noted above, the Applicant requested that her name on the Certificate of Naturalization reflect her maiden name, [REDACTED] and confirmed that [REDACTED] was her correct legal last name on the Form N-400 and Form N-649. As the Applicant confirmed this name to be her correct name at the time of naturalization, the regulation at 8 C.F.R. § 338.5(e) does not provide for a correction to her name to be made to her Certificate of Naturalization.

IV. CONCLUSION

The burden of proof in these proceedings rests with the Applicant. A replacement Certificate of Naturalization may be issued only if the Applicant can show that her name has been changed by a court order or marriage subsequent to naturalization, or if the Applicant can show that the correction to her name is justified due to USCIS error. As the Applicant has not provided documentation to show that her name has been legally changed after naturalization, nor has she provided documentation demonstrating that her name on the Certificate of Naturalization was printed incorrectly as a result of USCIS error, the Applicant has not established eligibility for issuance of a new Certificate. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of S-D-P-*, ID# 17188 (AAO Aug. 24, 2016)