

(b)(6)



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

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

MATTER OF A-M-O-

DATE: AUG. 25, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Nigeria and a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization to reflect a correction in his name. *See* 8 C.F.R. § 338.5. A U.S. citizen may request a new Certificate if the citizen can show that his or her Certificate of Naturalization was issued with incorrect information because of a clerical error by U.S. Citizenship and Immigration Services (USCIS).

The Director, Texas Service Center, denied the application. The Director concluded that the name on the Applicant's naturalization certificate conformed to the name as shown on his application for naturalization, and that a correction to the certificate was therefore not justified.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and claims that the Director erred in not replacing his Certificate of Naturalization to reflect a correction in his last name from [REDACTED] to [REDACTED]. The Applicant asserts that the last name on his church-issued birth certificate was misspelled, that he wrote his correct last name on his Form N-400, Application for Naturalization, and that evidence in the record and affidavits sworn to before a Nigerian court demonstrate that his correct last name is [REDACTED].

Upon *de novo* review, we will sustain the appeal. The Applicant has demonstrated that his Certificate of Naturalization contains clerical errors attributable to USCIS. He has therefore established eligibility for issuance of a new Certificate of Naturalization.

I. LAW

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

- (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.

(b)(6)

Matter of A-M-O-

-
- (b) *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. ANALYSIS

The Applicant seeks a replacement Certificate of Naturalization reflecting a correction in his last name from [REDACTED] to [REDACTED]. He indicates that he wrote his correct last name on the Form N-400, and that the last name on the church-issued birth certificate used for naturalization certificate purposes was misspelled. The Applicant asserts further that evidence demonstrates that his last name is [REDACTED] and he submits new affidavits, sworn to by his father before a court in Nigeria, declaring that his correct last name is [REDACTED] and that the last name contained in the Applicant's birth certificate is wrong. The entire record has been reviewed and considered. Upon review, we conclude that the Applicant has demonstrated that his Certificate of Naturalization contains clerical errors attributable to USCIS.

As stated above, the regulation at 8 C.F.R. § 338.5(a) permits a correction to a name on a Certificate of Naturalization when it is established that it does not conform to the information on the naturalization application or that USCIS committed a clerical error in preparing the certificate.

In the present matter, the record reflects that the Applicant represented his last name as [REDACTED] on his Form N-400; however, a USCIS officer changed his last name to [REDACTED] during the naturalization interview to conform to the last name stated on the Applicant's church-issued birth certificate.

A Certificate of Naturalization generally contains an applicant's full legal name as it appears on the individual's record of birth, or following a legal name change. *See* USCIS Policy Manual, Vol. 12, Part K, Chap.3, *Certificate of Naturalization*, <https://www.uscis.gov/policymanual>. The record in this case includes a birth certificate for the Applicant, prepared by the [REDACTED] in Nigeria. The document states that the Applicant's last name is [REDACTED]. However, the Applicant's church-issued birth certificate does not appear to be an official record of birth in Nigeria.

According to Department of State information, birth certificates in Nigeria are issued by the National Population Commission (NPC). *See* Department of State, Consular Affairs alerts and notices for Nigeria (June 1, 2013), <https://travel.state.gov>. Although certain hospitals, churches, and local governments may issue birth certificates, these certificates must be taken to the NPC for registration. *See* Research Directorate, Immigration and Refugee Board of Canada, Response to Information Request, *Nigeria: Birth registration process*, NGA 102888E (August 5, 2008), <https://www.justice.gov> (Citations omitted.) The record reflects that the Applicant's birth certificate

(b)(6)

Matter of A-M-O-

was not issued by, or registered with, the NPC. It should therefore not have been used for legal name purposes on the Applicant's Certificate of Naturalization

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. Neither the statute nor the regulations allow USCIS to correct a name on a Certificate of Naturalization for any reason other than clerical error attributable to USCIS.

Upon review, the evidence in the record sufficiently demonstrates that the Applicant's Certificate of Naturalization contains clerical errors attributable to USCIS. As stated above, the Applicant wrote his last name as [REDACTED] on the Form N-400; however, a USCIS officer changed the name based on information contained on the Applicant's unofficial, church-issued birth certificate. Although the record does not contain a birth certificate issued to the Applicant by the Nigerian NPC, the Applicant's U.S. non-immigrant visa and lawful permanent resident status documentation, as well as U.S. military record evidence, marriage certificate, and federal income tax documents contained in the record show that the Applicant's last name as [REDACTED]. A 2004 identification letter from the [REDACTED] Local Government in Nigeria also indicates that the Applicant's last name is [REDACTED]. In addition, June 2001 school certificate evidence from the [REDACTED] lists the Applicant's last name as [REDACTED]. The record also includes two affidavits filed and sworn to by the Applicant's father before a customary court in Nigeria, declaring that the Applicant's correct last name is [REDACTED].

Based on the reasons stated above, we conclude that the Applicant's Certificate of Naturalization contains an incorrect last name which resulted from USCIS clerical error. Accordingly, the Applicant is entitled to a replacement certificate.

III. CONCLUSION

The burden of proof in these proceedings rests with the Applicant and a replacement Certificate of Naturalization may be issued only if it "does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate" *See* 8 C.F.R. 338.5(a), *supra*. As the Applicant has provided documentation to show that his name on the Certificate of Naturalization was printed incorrectly as a result of an error by USCIS, the Applicant has established eligibility for issuance of a new Certificate of Naturalization. Accordingly, we sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of A-M-O-*, ID# 17202 (AAO Aug. 25, 2016)