



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

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

MATTER OF F-L-

DATE: JULY 11, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Mexico and a naturalized citizen of the United States, seeks replacement of his Certificate of Naturalization to reflect a different date of birth. *See* Title 8, Code of Federal Regulations (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 date of birth on the Applicant's naturalization certificate conformed to the date as shown on his application for naturalization, and that a correction to the Applicant's Certificate of Naturalization was therefore not justified.

The matter is now before us on appeal. In the appeal, the Applicant claims that the birth date on his Certificate of Naturalization is incorrect, and he questions any policy which does not allow the Service to amend a certificate after naturalization.

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

I. LAW

The Applicant is seeking replacement of his Certificate of Naturalization. The regulations pertaining to 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)

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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.

II. ANALYSIS

The Applicant is seeking replacement of his Certificate of Naturalization to reflect a correction in his date of birth from [REDACTED], to [REDACTED]

As indicated above, the Director denied the Applicant's request, finding that the correction was not justified. We have reviewed the entire record and we do not find an error in the Director's decision. The regulation at 8 C.F.R. § 338.5(a) permits a change to a date of birth on a Certificate of Naturalization when it is established that there was a clerical error attributable to USCIS in the preparation of the certificate. Here, the record reflects that the Applicant represented his date of birth as [REDACTED] on his Form N-400, Application for Naturalization. The Applicant's naturalization oath form also states that the Applicant's date of birth is [REDACTED]. Although the Applicant submits a Mexican birth certificate on appeal, reflecting that his date of birth is [REDACTED] 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 date of birth which he or she confirmed to be the correct date of birth at the time of naturalization was not in fact the person's date of birth. Neither the statute nor the regulations allow USCIS to correct a date of birth on a Certificate of Naturalization for any reason other than clerical error attributable to USCIS. *See* 8 C.F.R. § 338.5(a).

The Applicant also asserts that the Director's failure to correct the birth date on his Certificate of Naturalization is based on an arbitrary and capricious USCIS policy that lacks a rational basis. We cannot make a finding on this assertion, however. Our jurisdiction is limited to that authority specifically granted to us by the Secretary of the United States Department of Homeland Security, and does not include authority to determine whether a statutory or regulatory provision or USCIS policy is arbitrary and capricious. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004), and 8 C.F.R. § 103.1(f)(3)(E)(m) (as in effect on February 28, 2003.)

We conclude that the Applicant's Certificate of Naturalization does not contain errors which resulted from USCIS clerical errors, nor do we find that the date of birth correction meets the requirements of 8 C.F.R. 338.5(e). Accordingly, the Applicant is not 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),

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supra. As the Applicant has not provided documentation to show that his date of birth on the Certificate of Naturalization was printed incorrectly as a result of an error by the U.S. Citizenship and Immigration Services, the Applicant has not established eligibility for issuance of a new Certificate of Naturalization. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of F-L-*, ID# 16577 (AAO July 11, 2016)