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

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

MATTER OF G-N-

DATE: JULY 28, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Applicant, a native of Greece and a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization to reflect a corrected date of birth. *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, Nebraska 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 Certificate of Naturalization 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 issuing a replacement Certificate of Naturalization. The Applicant asserts that although he believed his birth date was [REDACTED] when he applied for, and became a naturalized U.S. citizen, evidence demonstrates that his actual birth date is [REDACTED]. The Applicant cites to district court decisions, and indicates that USCIS policy allows him to obtain a replacement Certificate of Naturalization reflecting a change in his date of birth.

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

I. LAW

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

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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 issue in this case is whether a correction to the date of birth on the Applicant's Certificate of Naturalization is justified. The Applicant indicates that, although he believed that his birth date was in [REDACTED] when he applied for, and became a naturalized U.S. citizen, he subsequently obtained birth certificate evidence demonstrating that his birth date is in [REDACTED]. The Applicant submits his birth certificate, with an English translation, on appeal.<sup>1</sup> The entire record has been reviewed and considered. Upon review, we find that a correction to the date of birth on the Applicant's Certificate of Naturalization is not justified.

The regulation at 8 C.F.R. § 338.5(a) permits a correction 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 stated that his birth date was [REDACTED] on the Form N-400, Application for Naturalization. In addition, the Applicant does not contest that he represented an [REDACTED] date of birth on his naturalization application and during his naturalization oath ceremony.

Although the record now includes birth certificate evidence indicating that the Applicant's birth date is in [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. Based on the discussion above, we conclude that the Applicant has not demonstrated that his Certificate of Naturalization contains incorrect information which resulted from USCIS clerical errors.

The Applicant cites to several district court cases and contends that despite the lack of a USCIS clerical error on his naturalization certificate, the Service may nevertheless issue a replacement Certificate of Naturalization reflecting a corrected date of birth. The Applicant does not provide full

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<sup>1</sup> The Applicant also asserts that the Director erroneously referred to a lack of death certificate evidence in his case. The record contains a letter from the Director stating that although the Applicant's date of birth could not be changed, a replacement certificate could be issued with the Applicant's current photo and marital status. In order to change the marital status on the Applicant's Certificate of Naturalization, the Director requested a certified copy of the Applicant's spouse's death certificate.

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legal citations for the court cases, and although he states that he submitted copies of the cases on appeal, the record does not include the decisions. Because the Applicant did not provide full legal citations or copies of the cases, we are unable to determine the relevance of the district court cases referred to by the Applicant. In addition, we are not bound to follow a published decision of a United States district court. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993).

### 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 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 USCIS, 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 G-N-*, ID# 17029 (AAO July 28, 2016)