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

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

MATTER OF M-C-

DATE: MAY 16, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Cuba and a U.S. citizen seeks a replacement Certificate of Naturalization to reflect her correct 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, Texas Service Center, denied the application. The Director reviewed the Applicant's record and determined that a correction to her Certificate of Naturalization was not justified. Specifically, the Director noted that the Applicant failed to establish that a clerical error was made in preparing the certificate or that her date of birth does not conform to the facts as shown on her original naturalization application. The application was denied accordingly.

The matter is now before us on appeal. In the appeal, the Applicant seeks to have her certificate of naturalization corrected to reflect a change in her date of birth from [REDACTED] to [REDACTED]. The Applicant asserts that her certificate of naturalization contains an erroneous date of birth because in Cuba the date is listed first and the month second, and that she was overwhelmed with the emotion and excitement of becoming a U.S. citizen and put her birthday in the reverse format. She states that she noticed the date of birth was wrong when she went to the social security office to change her name back to her maiden name.

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

I. LAW

The Applicant is seeking replacement of Certificate of Naturalization to reflect a change in her date of birth. The regulations regarding the correction of Certificates of Naturalization in 8 C.F.R. § 338.5, provide, in part:

- (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

(b)(6)

Matter of M-C-

issuance of a corrected certificate . . . may be filed by the naturalized person.

....

- (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.

II. ANALYSIS

The issue on appeal is whether the Applicant is entitled to a replacement Certificate of Citizenship to reflect a change in her date of birth. Although the Applicant provides an explanation as to why her certificate of naturalization contains an erroneous date of birth, she fails to establish that her Certificate of Naturalization contains clerical errors. Instead, the record reveals and she concedes that she mistakenly provided the information contained in her Certificate of Citizenship.

As stated above, 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 it does not conform to the information on the naturalization application or that USCIS committed a clerical error in preparing the certificate.

The evidence in the record includes two Applications for Naturalization, Form N-400. The second Form N-400 filed by the Applicant indicates that she submitted that form with her date of birth as [REDACTED]. However, in the Applicant's first Form N-400, which was denied, she listed her date of birth as [REDACTED]. Nonetheless, a red-ink alteration changed her date of birth from [REDACTED] to [REDACTED] an agreed upon change by the Applicant. The Applicant signed both the Form N-400s, attesting to the validity of its contents, including that her date of birth is [REDACTED].

In addition to her naturalization applications, the Applicant submitted the following documents with her date of birth as [REDACTED] conforming with her naturalization certificate: Form I-485, Application to Register Permanent Residence or to Adjust Status; Form I-94, Departure Record; her entry permit; her naturalization examination testing results; Form I-181, Memorandum of Creation of Record of Lawful Permanent Residence; and the Applicant's permanent resident card. However, the Applicant's record also includes documents that indicate her date of birth is [REDACTED] including her marriage certificate, her criminal documentation and her Form I-590, Registration for Classification as a Refugee along with related documents such as the processing worksheet and medical examination. The record also contains two Forms G-325A, Biographic Information, with each of the two dates stated above.

On appeal, the Applicant submits her birth certificate, her driver's license and her voting registration card that show her date of birth as [REDACTED].

(b)(6)

Matter of M-C-

While the record contains discrepancies regarding the Applicant's date of birth in her immigration record, the documents she produced with her naturalization applications all contain the same date of birth on her naturalization certificate, [REDACTED]. Moreover, the Applicant admits that she mistakenly submitted her date of birth using the format that she was accustomed to in Cuba, reversing the month and day order. As such, based on the evidence contained in the record, the Applicant has not established that her Certificate of Naturalization contains clerical errors, and we find that the information on the Applicant's Certificate of Naturalization conforms to the facts as set forth in the Form N-400. Accordingly, the Director correctly found that there are no provisions under 8 C.F.R. § 338.5 to justify or to allow for a USCIS correction of the Applicant's date of birth on her Certificate of Naturalization.

Based on the above, we 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.

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.

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 her date of birth on the Certificate of Naturalization was printed incorrectly as a result of an error by 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 M-C-*, ID# 16298 (AAO May 16, 2016)