



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

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

MATTER OF S-A-

DATE: MAY 18, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native of Korea and a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization to reflect her correct date of birth. *See* Title 8, Code of Federal Regulations, section 338.5 (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 USCIS had no authority to issue a replacement Certificate of Naturalization with a date of birth other than that which was established at the time of naturalization.

The matter is now before us on appeal. In the appeal, the Applicant indicates that due to her insufficient knowledge of English and lack of assistance in completing the forms incident to her citizenship, she made a mistake regarding her date of birth.

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

I. LAW

The Applicant is seeking replacement of Certificate of Naturalization. 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.

....

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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's date of birth on her Certificate of Naturalization was printed as [REDACTED]. The Applicant asserted that this date of birth was incorrect and requested a replacement Certificate. With her Form N-565, Application for Replacement Naturalization/Citizenship Certificate, the Applicant submitted a birth certificate, issued in Korea on June 20, 2013, which shows her date of birth as [REDACTED].

The Director denied the application finding that because the Applicant had attested in naturalization proceedings that her date of birth was [REDACTED] USCIS did not have authority to issue a replacement Certificate with a date a date of birth other than that established at the time of naturalization.

The Applicant states on appeal that she had simply made a mistake in her date of birth and is now seeking to correct this mistake by presenting proof that she was born on [REDACTED]. We conclude that the Applicant has not established she is eligible for a corrected Certificate of Naturalization.

As stated above, the regulation at 8 C.F.R. § 338.5(a) permits a change to a date of birth on a Certificate of Naturalization when the Applicant can show there was a clerical error attributable to USCIS in preparation of the Certificate. Upon review of the record, we find that the Applicant is not eligible for issuance of a replacement Certificate with the [REDACTED] date of birth, because there was no error by USCIS.

The record reflects that on the Form N-400, Application for Naturalization, the Applicant represented her date of birth as [REDACTED]. The Applicant signed the Form N-400 at the conclusion of the naturalization interview on February 9, 2004, affirming that all information of the form was true and correct. Additionally, the record contains other documents on which the Applicant's date of birth is listed as [REDACTED]. These documents include various immigration forms the Applicant submitted to USCIS, the Applicant's family register, issued in Korea on [REDACTED] 1998, her marriage certificate, identity documents, and a copy of her nonimmigrant visa.

The Applicant has now submitted a birth certificate showing her date of birth to be [REDACTED]. However, this birth certificate was not part of the record at the time of the Applicant's naturalization, and the Applicant affirmed on the naturalization application that she was born on [REDACTED]. There is no indication that the Applicant claimed during her naturalization process that the [REDACTED].

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█ date of birth listed on the above documents was incorrect, or that she sought to correct it prior to naturalization.

Accordingly, as the Applicant's date of birth printed on the Certificate of Naturalization is the same as the date of birth the Applicant listed on the naturalization application and confirmed in naturalization proceedings, we find that there was no error by USCIS in preparation of the Certificate. Furthermore, as the Applicant is now claiming that her correct date of birth at the time of naturalization, █ was not in fact her name or date of birth at the time of the naturalization, she is not eligible for the date change under 8 C.F.R. §388.5(e).

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 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 S-A-*, ID# 16297 (AAO May 18, 2016)