



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

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

MATTER OF M-F-A-

DATE: SEPT. 23, 2016

APPEAL OF NEBRASKA 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 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 correction was not justified because the birth date on the Applicant's Certificate conformed to the facts as shown on his Form N-400, Application for Naturalization, and the Applicant did not demonstrate that a clerical error was made in preparing the Certificate.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and he claims that the date of birth on his Certificate is incorrect due to USCIS clerical error. The Applicant contends that all immigration documents issued to him prior to naturalization reflect his correct date of birth. He indicates further that the month and day of his birth were reversed on his Certificate of Naturalization due to a clerical error, possibly because Nigerian documents list dates of birth in a day-month-year format, as opposed to the month-day-year format used to list dates of birth in the United States.

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

I. LAW

The Applicant is seeking replacement of his Certificate of Naturalization with a corrected date of birth. 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

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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 here is whether the Applicant has demonstrated that the date of birth was printed incorrectly on his Certificate of Naturalization as a result of USCIS error. The Applicant asserts that his correct birth date is [REDACTED] but that his Certificate of Naturalization erroneously shows [REDACTED] as his date of birth. He contends that USCIS printed his correct birth date on immigration documents issued to him prior to naturalization, and he indicates that the month and day of his birth were reversed on his Certificate of Naturalization due to a USCIS clerical error. In support of his assertions the Applicant submits employment authorization cards issued by USCIS in 1993, 1995, and 1998; and a temporary resident card issued in 1994, containing the [REDACTED] date of birth. The Applicant also submits evidence that a Form I-94, Departure Record, and the Form G-325A, Biographic Information, signed by his spouse, contained the [REDACTED] birth date. The Applicant's Nigerian passport, issued in February 2011, also shows a [REDACTED] birth date.

The entire record has been reviewed and considered in arriving at a decision on the appeal. Upon review, we find that a correction to the Applicant's naturalization certificate is not justified.

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 record in this case reflects that the Applicant represented his date of birth as [REDACTED] on his Form N-400, Application for Naturalization. The Applicant's Form N-400 contains his signature affirming that the information contained on the Form N-400 is correct. The Form N-400 also reflects that the Applicant verbally confirmed that he was born on [REDACTED] during his naturalization interview, as indicated by the interviewing officer's red check mark next to his date of birth on the Form N-400. In addition, the record contains the Applicant's Form N-649, Certificate Preparation Sheet and Oath Declaration, which the Applicant signed to confirm his true name, country of nationality, and the [REDACTED] birth date. Accordingly, the Applicant has not shown that his Certificate of Naturalization does not conform to the information on his naturalization application, or that it contains clerical errors attributable to USCIS.

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We acknowledge that some immigration documentation issued to the Applicant prior to his adjustment of status to that of a lawful permanent resident, contained a [REDACTED] birth date.¹ However, the record reflects that the Applicant represented on his Form I-485, Application to Register Permanent Residence or Adjust Status that he was born on [REDACTED]. Moreover, identity documentation submitted with the Applicant's Form I-485, including a Nigerian birth certificate, issued in October 1989, and a marriage certificate issued in 1992, contained the [REDACTED] birth date. In addition, the Applicant's Form I-551, Alien Registration Receipt Card was issued with the [REDACTED] date of birth. The Applicant's U.S. passport also reflects that his birth date 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.

Based on the above, we conclude that the Applicant's Certificate of Naturalization does not contain incorrect information which resulted from USCIS clerical errors. Accordingly, the Applicant is not entitled to a replacement certificate.

IV. 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 demonstrated that the date of birth on his Certificate of Naturalization is different than the date of birth represented on his Form N-400, or that it was printed incorrectly as a result of an error by U.S. Citizenship and Immigration Services, the Applicant has not established eligibility for issuance of a new Certificate of Naturalization.

ORDER: The appeal is dismissed.

Cite as *Matter of M-F-A-*, ID# 113785 (AAO Sept. 23, 2016)

¹ Form I-688A and I-688B, Employment Authorization documents and a Form I-668, Temporary Resident card show the [REDACTED] date of birth.