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

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

MATTER OF H-A-R-

DATE: SEPT. 30, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Applicant, a native of El Salvador and a naturalized citizen of the United States, seeks a replacement Certificate of Naturalization. *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), or if the Certificate does not conform to the facts on the application.

The Director, Nebraska Service Center, denied the application. The Director concluded that because the Applicant had claimed her date of birth as [REDACTED] 1962, at the time of naturalization, she was not eligible for a replacement Certificate of Naturalization with a different date of birth.

The matter is now before us on appeal. On appeal, the Applicant contends that her correct date of birth is [REDACTED] 1961, and resubmits photocopies of her birth certificate and her driver's license issued by the state of California in 2013, showing her date of birth as [REDACTED] 1961, and photocopies of documents that the Applicant claims were issued to her mother at the time of the Applicant's birth. The Applicant, does not, however, provide certified translations of these documents.¹

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

I. LAW

The Applicant is seeking replacement of Certificate of Naturalization with a corrected date of birth. The regulations at 8 C.F.R. § 338 regarding the execution and issuance of Certificates of

¹ *See* 8 C.F.R. § 103.2(b)(3), which states:

(3) Translations. Any document containing foreign language submitted to the Service [now Citizenship and Immigration Services] shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

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Naturalization include provisions for the correction of certificates under 8 C.F.R. § 338.5, and state, 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.

....

- (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. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Applicant entered the United States in 1981, and was granted lawful permanent resident status in 1989. The record includes a copy of her Form I-551, Alien Resident Receipt Card, which shows her date of birth as [REDACTED] 1962.

The Applicant initially filed Form N-400, Application for Naturalization, in 1994, which was subsequently denied in July 1996, because she did not adequately respond to a notice of intent to deny (NOID). The Applicant refiled the Form N-400 in October 1996, which was approved in August 1997. On both filings, the Applicant entered her date of birth as [REDACTED] 1962. The Applicant was interviewed in August 1997 in conjunction with the second Form N-400. During the interview, she confirmed the date of birth of [REDACTED] 1962, as indicated by the interviewing officer's red checkmark. The interviewing officer made 14 corrections to the Form N-400, none of which were related to the Applicant's date of birth, and the Applicant signed the Form N-400, acknowledging that all of the information on the form was correct.

The record further includes Form N-649, Certificate Preparation Sheet and Oath Declaration, which lists the Applicant's date of birth as [REDACTED] 1962. The Applicant signed the Form N-649, acknowledging that the information on the form, including her date of birth, was correct.

The Applicant filed Form N-565, Application for Replacement Naturalization/Citizenship Document to request that her date of birth on her Certificate of Naturalization be changed from [REDACTED] 1962, to [REDACTED] 1961.² The Director denied the application finding that the date of birth printed

² On the Form N-565, the Applicant also requested that her Certificate of Naturalization, which indicated her marital status as "married," to be changed to "divorced." The Certificate of Naturalization was issued in September 1997. The

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on the Certificate of Naturalization was the same as the one the Applicant claimed was her true and correct date of birth at the time of naturalization.

On appeal, the Applicant states that her correct date of birth is [REDACTED] 1961, and resubmits copies of the documentation that she previously provided to the record.

We have reviewed all the evidence in the record of proceeding.

III. ANALYSIS

The issue in this case is whether the Applicant's Certificate of Naturalization contains incorrect information regarding the Applicant's date of birth which resulted from USCIS clerical error, or whether the Certificate does not conform to the facts on the N-400 application. Upon review of the entire record, we find that the date of birth listed on the Applicant's Certificate of Naturalization conforms with the information on the application, and that there was no clerical error by USCIS in issuance of the certificate with the [REDACTED] 1962, date of birth.

As discussed above, the Applicant provided her date of birth as [REDACTED] 1962, on her application for naturalization, and she twice confirmed this date of birth, in writing, at her naturalization interview. As the Applicant's Certificate of Naturalization reflects the date of birth consistently proffered by the Applicant during the naturalization process, we find that the date of birth on the Certificate of Naturalization conforms to the facts on the Application for Naturalization, and that there was no clerical error in the preparation of the Certificate. While the Applicant has submitted documents to demonstrate that she was born on [REDACTED] 1961, USCIS has no authority to issue a new certificate with a date of birth other than [REDACTED] 1962, which the Applicant claimed was her correct date of birth in naturalization proceedings. *See* 8 C.F.R. § 338.5(e), *supra*.

Based on the above, we conclude that the Applicant is not entitled to a replacement certificate reflecting the date of birth she requests.

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 met this burden, the Applicant has not established eligibility for issuance of a new Certificate of Naturalization.

record indicates that the Applicant divorced her spouse in [REDACTED] 1999. As the Applicant was married at the time her Certificate of Naturalization was issued, she is not entitled to have her marital status changed. The Director did not address the issue of the Applicant's request for a change in her marital status, and the Applicant does not raise it on appeal.

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ORDER: The appeal is dismissed.

Cite as *Matter of H-A-R-*, ID# 7973 (AAO Sept. 30, 2016)