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

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

MATTER OF R-S-C-C-

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 China and a naturalized citizen of the United States, seeks a replacement Naturalization document. *See* Immigration and Nationality Act (the Act) § 338, 8 U.S.C. § 1449, and 8 C.F.R. § 338.5. Section 338 of the Act provides the statutory authority relating to the contents of a Certificate of Naturalization. A U.S. citizen may request a new Certificate if the citizen can show that his Certificate of Naturalization was issued with incorrect information because it does not conform to the facts on his application, or a clerical error was made by U.S. Citizenship and Immigration Services (USCIS). The Applicant seeks to have his Certificate of Naturalization corrected to reflect a change in his date of birth.

The Director, Nebraska Service Center, denied the application. The Director concluded that because the Applicant had claimed his date of birth as [REDACTED] 1941, at the time of naturalization, he 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 he recently learned that he was adopted as a child, and that his original date of birth was not correct. He requests that his date of birth on his Certificate of Naturalization be corrected.

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

I. LAW

The Applicant is seeking replacement of his Certificate of Naturalization to reflect a correction in his date of birth. The regulations at 8 C.F.R. § 338 regarding the execution and issuance of Certificates of 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.

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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. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Applicant was admitted to the United States in 1974, based on an immigrant visa petition filed by his U.S. citizen mother. The record shows that all documentation submitted with the visa application indicates that the Applicant's date of birth is [REDACTED] 1941, including a 1974 declaration by the Applicant, and a 1974 biographic data report attested to before the U.S. Consulate General in [REDACTED].

The Applicant filed Form N-405, Petition for Naturalization, in December 1979. The Applicant listed his date of birth as [REDACTED] 1941, on the Form N-405.

The Applicant filed Form N-400, Application to File Petition for Naturalization in April 1982, listing his date of birth as [REDACTED] 1941. The Applicant was interviewed in conjunction with the Form N-400 by an officer with the U.S. Immigration and Naturalization Service (INS) in March 1983. During the interview, the interviewing INS officer made several corrections to the Form N-400, and indicated with check marks that the [REDACTED] 1941, date of birth was correct. The Applicant signed the Form N-400 before the interviewing INS officer, attesting to the accuracy of the information on the application.

The Applicant filed Form N-565, Application for Replacement Naturalization/Citizenship Document in February 2015, requesting that his date of birth on his Certificate of Naturalization be changed from [REDACTED] 1941, to [REDACTED] 1939. The Applicant claimed that there was a mistake regarding his date of birth, which was made at the time he was applying to school during wartime, and submitted what he purports to be his correct birth certificate, with a [REDACTED] 1939, date of birth. The Director denied the application in January 2016.

On appeal, the Applicant states that he recently learned that his date of birth on his Certificate of Naturalization is incorrect as he was adopted as a child. He also submits a copy of a 2015 letter from the Social Security Administration, indicating that his date of birth in their records is [REDACTED] 1939.

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

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### 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 clerical error, and whether the date of birth conforms to the facts on the naturalization 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 error by INS, the predecessor to USCIS, in issuance of the certificate with the [REDACTED] 1941, date of birth. Therefore we will dismiss the appeal.

As discussed above, the Applicant provided an [REDACTED] 1941, date of birth on his Application to File Petition for Naturalization, and he confirmed this date of birth, in writing, at his 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 to File Petition for Naturalization, and that there was no clerical error in the preparation of the Applicant's Certificate of Naturalization. While the Applicant has submitted documents to indicate that he was born on [REDACTED] 1939, USCIS has no authority to issue a new certificate with a date of birth other than [REDACTED] 1941, which the Applicant claimed was his 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 he 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.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-S-C-C-*, ID# 113858 (AAO Sept. 30, 2016)