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

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

MATTER OF W-S-

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 Cambodia and a naturalized citizen of the United States, seeks a replacement Certificate of Naturalization. *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 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 because the Applicant had claimed her date of birth as [REDACTED] 1956, 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] 1956, and submits a photocopy of her Form I-551, Resident Alien Card, which shows her date of birth as [REDACTED] 1956, and a photocopy of her Form N-400, Application for Naturalization, from 2007, which also shows her date of birth as [REDACTED] 1956.

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

I. LAW

The Applicant is seeking replacement of Certificate of Naturalization to reflect a correction in her 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 1979, as a refugee. The Applicant's Form I-94, Arrival-Departure Record, initially indicated her date of birth as [REDACTED] 1960, but was subsequently amended to reflect 1956 as her year of birth. In addition, the Applicant, as a refugee, had her fingerprints taken in 1979, and the fingerprint card indicates her date of birth is [REDACTED] 1956.

The Applicant was granted lawful permanent resident (LPR) status in April 1982. Documentation in the record related to the grant of LPR status includes a 1981 affidavit for the birth certificate for the Applicant, which reflects a [REDACTED] 1956, date of birth. The record also includes: Form G-325, Biographic Information, filed by the Applicant and dated in January 1982; Form I-468, Data Collection for Alien Documentation, Identification & Telecommunication System (ADIT); and Form I-181, Memorandum of Creation of Record of Lawful Permanent Residence, each giving the Applicant's date of birth as [REDACTED] 1956.

The Applicant submitted a copy of her Form I-551, Resident Alien Card, which shows her date of birth as [REDACTED] 1956.

The Applicant filed Form N-400, Application for Naturalization, in October 2007, and USCIS interviewed the Applicant in conjunction with that application in April 2008. Page 2 of the Form N-400 indicates that the Applicant's date of birth is [REDACTED] 1956. Notations made to the Form N-400 by the interviewing USCIS officer were made in red ink. The interviewing officer made only one correction to the Form N-400, on page 4 of the application, and the Applicant signed the Form N-400, acknowledging only one correction to the form, which was unrelated to her date of birth.

In addition, the Applicant signed her initials on the Form N-649, Certificate Preparation Sheet and Oath Declaration, acknowledging that the information on that form was correct. The Form N-649 indicates the Applicant's date of birth as [REDACTED] 1956.

The Applicant filed Form N-565, Application for Replacement Naturalization/Citizenship Document in April 2015, requesting that her date of birth on her Certificate of Naturalization be changed from [REDACTED] 1956; to [REDACTED] 1956. The Director denied the application in January 2016.

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On appeal, the Applicant submits another copy of her Form I-551, and also a photocopy of her Form N-400, in which the date of birth was written as [REDACTED] 1956.

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 date of birth on 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] 1956, date of birth.

As discussed above, the Applicant provided a [REDACTED] 1956, date of birth 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] 1956, USCIS has no authority to issue a new certificate with a date of birth other than [REDACTED] 1956, 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.

ORDER: The appeal is dismissed.

Cite as *Matter of W-S-*, ID# 113892 (AAO Sept. 30, 2016).