



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

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

In Re: 19927517

Date: FEB. 9, 2022

Appeal of Nebraska Service Center Decision

Form N-565, Application to Replace a Certificate of Citizenship or Naturalization

The Applicant, a naturalized U.S. citizen seeks a new Certificate of Naturalization with a different date of birth. *See* Title 8, Code of Federal Regulations, section 338.5 (8 C.F.R. § 338.5).

The Director of the Nebraska Service Center denied the application, concluding that the 1960 date of birth printed on the Applicant's original certificate was the same date of birth she provided at the time of naturalization, and she did not establish that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in preparing the certificate, or that the 1960 date of birth did not conform to the information in the application for naturalization.

On appeal, the Applicant submits additional evidence and assert that the Director's decision was in error. She claims that she indicated she wished to change her date of birth to 1955 during her naturalization interview, but was denied an opportunity to do so. The Applicant further states that she did not confirm in naturalization proceedings that she was born 1960, and that such date printed on her original Certificate of Naturalization resulted from USCIS mistake.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. 8 CFR 103.2(b)(1). Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

Department of Homeland Security regulations provide that 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 applicant may apply for issuance of a corrected certificate, without fee, in accordance with the form instructions. 8 C.F.R. § 338.5(a). The correction will not be deemed justified, however, where the naturalized person alleges that the date of birth which he or she stated to be his or her correct date of birth at the time of naturalization was not in fact his or her true date of birth. 8 C.F.R. § 338.5(e).

The record reflects that the Applicant naturalized as a U.S. citizen in 2006 and was issued a Certificate of Naturalization reflecting that she was born in Ethiopia in 1960. The Applicant claims that this date of birth is incorrect and that she was actually born in 1955. She explains that when she initially arrived in the United States and applied for immigration benefits she did not have documents to correct the

1960 date of birth a preparer listed on her 1991 asylum application, and that “upon everybody’s advice,” she just focused on obtaining lawful permanent resident status in the United States. The Applicant states that her family in Ethiopia has been able to find a copy of her marriage certificate which shows that she was born in 1955. The supplemental evidence the Applicant submits on appeal includes a copy of that marriage certificate, general information about Gregorian calendar dates conversion, and a letter from a friend opining that that the Applicant “appeared to be in her mid-twenties” at the time of her marriage in 1977, which would make her claimed 1955 date of birth “much more plausible.”

We have reviewed the entire record and conclude that the Applicant is not eligible for a replacement Certificate of Naturalization with the 1955 date of birth because she attested in naturalization proceedings that she was born in 1960, and the evidence in the record at the time was consistent with her testimony.

The Applicant represented on her Form N-400, Application for Naturalization which she signed under penalty of perjury in September 2005 that she was born in 1960. She confirmed that this information was correct during her naturalization interview, as indicated by the interviewing officer’s red check mark next to the Applicant’s date of birth on the form. Furthermore, the Applicant signed the Form N-400 at the conclusion of the interview affirming that all information therein, including her date of birth, was true and correct. The record also contains immigration forms the Applicant filed prior to naturalizing, which included her applications for asylum and adjustment of status and the accompanying biographical information forms, on which she also represented that she was born in 1960. The evidence in the record at the time of naturalization was consistent with those representations, as it included the Applicant’s Ethiopian passport listing her 1960 date of birth, and her marriage certificate which similarly reflected that she was born in 1960.

The 1960 date of birth printed on the Applicant’s Certificate of Naturalization therefore is the same as the date of birth the Applicant represented in naturalization proceedings. Furthermore, the 1960 date of birth conforms to the supportable facts on the Applicant’s naturalization application and evidence in the record at the time.

We acknowledge the Applicant’s statements that she was actually born in 1955, as well as the supporting evidence she submits on appeal. However, in adjudicating her request for a new certificate we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction only when an applicant establishes that the date of birth does not conform to the information on the naturalization application, or that USCIS committed a clerical error in preparing the certificate. Because the Applicant has not demonstrated that either of these situations occurred in her case, we cannot change the date of birth on her Certificate of Naturalization. Her claim that the 1960 date of birth she attested to as true and correct in naturalization proceedings was in fact incorrect is not considered a justifiable basis for a date of birth change and issuance of a new certificate. 8 C.F.R. § 338.5(e).

**ORDER:** The appeal is dismissed.