



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

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

In Re: 23971167

Date: FEB. 10, 2023

Appeal of Nebraska Service Center Decision

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

The Applicant seeks a replacement Certificate of Naturalization with a different date of birth pursuant to 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 1958 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 a clerical error was made in preparing the certificate or that her date of birth did not conform to the facts on her application for naturalization. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

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 they stated to be their correct date of birth at the time of naturalization was not in fact their true date of birth. 8 C.F.R. § 338.5(e).

The record reflects that the Applicant naturalized as a U.S. citizen in 2012 and was issued a Certificate of Naturalization reflecting that she was born in Ethiopia in 1958. The Applicant does not contest that the 1958 date of birth printed on her original certificate is the date she represented and attested to in naturalization proceedings as her true and correct date of birth, nor does she claim that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in preparing her certificate. Rather, she explains that she was unable to obtain her birth record from Ethiopia until 2018 because of various bureaucratic issues, and renews her request for a replacement Certificate of Naturalization. In support, the Applicant resubmits a copy of her birth certificate issued in Ethiopia in 2018, which reflects that she was born in 1955.

We acknowledge the Applicant's explanation and supporting evidence. However, in adjudicating her request for a replacement Certificate of Naturalization we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction only when: (1) the date of birth printed on the original certificate does not conform to the information on the naturalization application, or (2) USCIS made a clerical error in preparing the certificate. Because the Applicant has not demonstrated that either of these two situations occurred in this case, we cannot change the date of birth on her Certificate of Naturalization. The Applicant's claim that the 1958 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 replacement certificate. 8 C.F.R. § 338.5(e).

Consequently, the Applicant has not established eligibility for a replacement Certificate of Naturalization with a different date of birth.

ORDER: The appeal is dismissed.