



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

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

In Re: 24706300

Date: MARCH 22, 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, consistently with the information on her baptismal certificate and other documents in the record at the time, and that she did not therefore 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.

On appeal, the Applicant asserts that the 1958 date of birth listed in her baptismal certificate was incorrect, and that she was born in 1959. In support, she submits copies of her expired Nigerian passport and a statutory declaration of age executed in Nigeria in 2022.

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 adjusted her status to that of a lawful permanent resident in 1984. The Applicant represented in the adjustment of status proceedings that she was born in 1958 and the supporting documentation includes her baptismal and marriage certificates as well as her school records listing the 1958 date of birth. The record also contains a statutory declaration of age,

the Applicant's mother executed in Nigeria in 1978 confirming under oath that the Applicant was born in 1958. The Applicant subsequently applied for naturalization representing that she was born in 1959; however, as that representation was neither supported by evidence nor consistent with the previously provided documents with the 1958 date of birth, the naturalization examiner changed it to 1958. As a result, the Applicant was issued a Certificate of Naturalization reflecting that she was born in Nigeria in 1958.<sup>1</sup>

The Applicant does not dispute that she attested in prior immigration proceedings she was born in 1958, and that she submitted multiple documents to establish that it was her true and correct date of birth. Moreover, the record of proceedings at the time of the Applicant's naturalization did not contain evidence to support her claim she was born in 1959. We therefore cannot conclude that the 1958 date of birth printed on the Applicant's original certificate does not conform to the supportable facts on her naturalization application. Consequently, the Applicant has not shown that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in preparing her certificate.

We acknowledge the submission of the evidence with the 1959 date of birth. However, in adjudicating the Applicant's 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 supportable facts 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 supported by the evidence in the record at the time of her naturalization, which she previously attested to as her true and correct date of birth, 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.

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<sup>1</sup> The Applicant was naturalized at a U.S. district court in California. A copy of her original certificate in the record contains an annotation by the court clerk certifying that "the erasure on this certificate was made before issuance to conform to the petition in the following respect: date of birth: "... 1958."