



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

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

In Re: 26876715

Date: MAY 5, 2023

Appeal of Nebraska Service Center Decision

Form N-565, Application for Replacement Naturalization/Citizenship Document

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 Form N-565, concluding that the date of birth printed on the Applicant's original certificate was the same date of birth he provided at the time of naturalization, and he did not establish that U.S. Citizenship and Immigration Services (USCIS) made a clerical error in preparing the certificate, or that the date of birth on the certificate did not conform to the information in his application for naturalization. The matter is now before us on appeal.

On appeal, the Applicant does not provide a statement, but submits a copy of his hospital record with a date of birth different than the one printed on his Certificate of Naturalization.

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 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 Applicant naturalized as a U.S. citizen in 2020 and was issued a Certificate of Naturalization reflecting that he was born in Egypt on [redacted] 1998. The Applicant indicates that this date of birth is incorrect and that he was actually born on [redacted] 1998, as reflected in his hospital record.

We have reviewed the entire record and conclude that the Applicant is not eligible for a replacement Certificate of Naturalization with that date of birth, because he attested in naturalization proceedings

that he was born on [] 1998, and the evidence in the record at the time was consistent with his testimony.

The Applicant represented on his Form N-400, Application for Naturalization, that he was born on [] 1998, and confirmed under oath during his naturalization interview with a USCIS officer that this was his true and correct date of birth. The record at the time included the Applicant's birth certificate issued and certified by the Egyptian Ministry of Interior reflecting that he was born on [] 1998, as well as a copy of his foreign passport with the same date of birth. The record also contains immigration forms the Applicant filed prior to naturalizing, which include his application for adjustment of status to that of a lawful permanent resident and the accompanying biographical information and medical examination forms, on which he represented that he was born on [] 1998, consistently with the information in his birth certificate and passport.

Thus, the [] 1998, date of birth printed on the Applicant's Certificate of Naturalization is the same the date of birth the Applicant represented in naturalization proceedings. Furthermore, that 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 additional evidence the Applicant submits on appeal indicating that he was born in [] 1998. However, in adjudicating his 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 (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 situations occurred in his case, we cannot change the date of birth on his Certificate of Naturalization.

ORDER: The appeal is dismissed.