



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

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

In Re: 22957121

Date: DEC. 14, 2022

Appeal of Nebraska Service Center Decision

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

The Applicant seeks a replacement Certificate of Naturalization with a different date of birth. *See* 8 C.F.R. § 338.5 (governing the correction of naturalization certificates).

The Director of the Nebraska Service Center denied the Form N-565, Application for Replacement Naturalization/Citizenship Document (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. On appeal, the Applicant asserts that he provided a different date of birth at his naturalization interview and submits a new statement on appeal.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 103.2(b)(1); *Matter of Chawathe*, 29 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office reviews 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 remand the matter to the Director for the issuance of a new decision.

Department of Homeland Security regulations on corrections of Certificates of Naturalization provide, in pertinent part at 8 C.F.R. § 338.5(a), that: "[W]henver 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." The correction will not be deemed justified, however, where the naturalized person later 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 at the time of naturalization. 8 C.F.R. § 338.5(e).

The Applicant claims that he was born in Saudi Arabia on [redacted] 1971, but that his lawful permanent resident (LPR) card erroneously listed his date of birth as [redacted] 1972. The Director denied the Form N-565, concluding that the Applicant had not shown that the Certificate of Naturalization can be reissued with an amended date of birth because the Applicant had not demonstrated that the date of birth on the original certificate is incorrect based on a clerical error made when preparing the certificate.

The record reflects that the Applicant was naturalized as a U.S. citizen in 1996 and was issued a Certificate of Naturalization reflecting that he was born on [REDACTED] 1972. The [REDACTED] 1972 date of birth on the Certificate of Naturalization conforms to the date of birth on: (1) the Applicant's Form I-151, Alien Registration Receipt Card (expiration date in 2000), a copy of which he included with his Form N-400, Application for Naturalization (Form N-400); (2) his U.S. Department of State (DOS) Immigrant Visa and Alien Registration form issued on May 6, 1990, which he used to enter the United States as an immigrant on May 18, 1990; (3) his DOS Form OF-230, Application for Immigrant Visa and Alien Registration, dated May 6, 1990; and (4) his birth certificate presented to DOS at the time of his visa interview.¹

On appeal, the Applicant contends that he identified his date of birth as [REDACTED] 1971 on his 1996 Form N-400 and verbally to the officer at the time of his naturalization interview. He asserts that he informed the interviewing officer that his birthday is [REDACTED] 1971, and not [REDACTED] 1972, as was incorrectly reflected on his LPR card. He asserts that he made several corrections to his Form N-400 and signed an attestation acknowledging those corrections numbered 1-10; however, he asserts that he did not, at any point during the interview, say or indicate that the date of birth he provided on the Form N-400 should be changed from [REDACTED] 1971 to [REDACTED] 1972. He further claims that, when asked if anything was incorrect on his LPR card at his naturalization interview, he indicated that his name and date of birth were incorrect and signed an Application for Change of Name with the correct spelling of his name and his corrected date of birth. However, he states that his Certificate of Naturalization was issued with the incorrect [REDACTED] 1972 date of birth. He contends that when he attempted to get his Certificate of Naturalization corrected at the naturalization oath ceremony, he was told he had to return to the [REDACTED] immigration office to do so, and when he returned to the [REDACTED] immigration office, he was informed that he needed to have a judge correct his date of birth.

The record on appeal corroborates that the Applicant identified his date of birth as [REDACTED] 1971 on his Form N-400 and that the change to the date of birth was not numbered by the interviewing officer. The Processing Sheet for the Form N-400, completed by the interviewing officer, specifically states "green card has incorrect birthday[:] should be [REDACTED] 1971," and is signed by the Applicant. It also shows that the [REDACTED] 1972 date of birth was crossed out and [REDACTED] 1971 was printed in its place. However, it appears that the [REDACTED] 1972 date of birth, on both the Form N-400 and the Processing Sheet, was subsequently crossed out and again replaced with [REDACTED] 1972 at some point after the Applicant's interview and before the naturalization oath ceremony. In the adjudication of the Applicant's request for a replacement certificate, we are bound by the regulation at 8 C.F.R. § 338.5(a), which permits a date of birth correction for a Certificate of Naturalization 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 committed a clerical error in preparing the certificate. Here, it appears that the date of birth printed on the original certificate does not conform to the information on his naturalization application that he attested to and signed at his naturalization interview.

¹ The Applicant was a derivative beneficiary of a Form I-130, Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa, filed on behalf of his mother in 1982. The Form I-130 lists the Applicant with a 1972 year of birth as a child of the principal beneficiary.

At issue, however, is whether the [REDACTED], 1971 date of birth that the Applicant indicated on his Form N-400 is supported in the record. See 12 USCIS Policy Manual K.4(A), <https://www.uscis.gov/policymanual> (providing that a person may request a replacement certificate in cases where USCIS issued a certificate that does not conform to the “supportable facts” shown on the applicant’s citizenship or naturalization application). The Applicant has not provided a birth certificate or passport identifying this date of birth, and while the copy of the “Egyptian travel document,” submitted with his Form N-565, includes the [REDACTED] 1971 date of birth, the text for the date of birth appears different from the rest of the text in the document. The Applicant also submitted a California driver’s license showing the [REDACTED] 1971 date of birth, but did not explain how he was able to obtain it with this date of birth when his previous LPR card, current Certificate of Naturalization, and immigrant visa records all show the [REDACTED] 1972 date of birth. Further, the record does not indicate that the Applicant presented any evidence at the time of his naturalization interview to corroborate his newly claimed date of birth, [REDACTED] 1971. In fact, the historical immigration documentation in the record, including his birth certificate, identify his correct date of birth as [REDACTED], 1972.

Based on the above, the Applicant has shown that his Certificate of Naturalization does not necessarily conform to the information on his naturalization application or his declarations during his naturalization interview. However, the record does not contain sufficient evidence to establish the Applicant’s date of birth as [REDACTED] 1971, as set forth in his Form N-400. Accordingly, we will remand the matter to the Director to address it in the first instance and reevaluate the Applicant’s eligibility.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.