



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

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

In Re: 18052216

Date: JAN. 31, 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. 8 C.F.R. § 338.5.

The Director of the Nebraska Service Center denied the Form N-565, concluding that the Applicant had not shown that the date of birth listed on his Certificate of Naturalization was incorrect based on a clerical error made when preparing the certificate, as required.

On appeal, the Applicant asserts that he naturalized under an incorrect date of birth because he had been unable to obtain a birth certificate with his correct date of birth until recently. The Applicant submits additional evidence on appeal.

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

I. LAW

Department of Homeland Security regulations on corrections of Certificates of Naturalization provide, in pertinent part at 8 C.F.R. § 338.5, that:

- (a) [W]henever 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.

....

- (e) [T]he correction will not be deemed to be justified where the naturalized person later alleges that the . . . date of birth which the applicant stated to be his or her correct . . . date of birth at the time of naturalization was not in fact his or her . . . date of birth at the time of the naturalization.

II. ANALYSIS

In the record before the Director, the Applicant claimed that he was born in Canada on [REDACTED] 1948, and baptized eight days later on [REDACTED] 1948, but his original birth certificate erroneously listed his date of birth as the baptismal date of [REDACTED] 1948. Although he stated that he believed his original baptismal certificate would have cleared up the error, the Applicant claimed that it was destroyed in a fire. Without the baptismal certificate, the Applicant alleged that the Canadian government had refused to correct his birth certificate until recently. The Applicant provided a new copy of his Canadian birth certificate reflecting the [REDACTED] 1948 date of birth.

The Director denied the Form N-565, concluding that the Applicant had not shown that the Certificate of Naturalization can be reissued because the Applicant had not demonstrated that the date of birth on it 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 2004, and was issued a Certificate of Naturalization reflecting that he was born on [REDACTED] 1948. The [REDACTED] 1948 date of birth on the Certificate of Naturalization conforms to the date of birth on the Applicant's Form N-400, Application for Naturalization, and on his 1997 Form I-151, Alien Registration Receipt Card, a copy of which he had included with his Form N-400. The Applicant signed the Form N-400 at his interview on December 11, 2003, certifying under penalty of perjury that the facts reflected on the Form N-400 were true and correct. Moreover, on the day the Applicant naturalized, he signed the face of his Certificate of Naturalization, certifying that his pre-printed personal data, including the date of birth of [REDACTED] 1948, was true.

On appeal, the Applicant contends when he was naturalizing in 2004, he had believed that he would never be able to obtain a corrected Canadian birth certificate, and therefore he had used the incorrect date of birth of [REDACTED] 1948, in order to complete the naturalization process. He claims that the birth certificate with the erroneous date of birth was not obtained through fraud and suggests that there must be a process to get the information corrected. He attaches a copy of a previously-submitted statement in which the Applicant expressed concern that his family will have problems in claiming his life insurance and retirement funds in the future based on the mismatch between his date of birth on the Certificate of Naturalization and on his other records, including his now-corrected Canadian birth certificate.

We acknowledge the Applicant now claims that his date of birth as recorded on his Naturalization Certificate was not correct. However, 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. Because the Applicant has not claimed or demonstrated that either of the two conditions occurred in his case, we cannot change the date of birth on his Certificate of Naturalization.

Moreover, regulations prohibit USCIS from making any changes to a date of birth on a Certificate of Naturalization if the applicant has completed the naturalization process and sworn to the facts of the

application, including the date of birth. 8 C.F.R. § 338.5(e); 12 *USCIS Policy Manual* K.4(A), <https://www.uscis.gov/policymanual>. In this case the Applicant completed the naturalization process and swore to the facts of the Form N-565, including the day of birth of [] 1948, printed on his Certificate of Naturalization. Consequently, the record does not show that the Applicant has established eligibility for a new Certificate of Naturalization with a different date of birth. For this reason, his Form N-565 will remain denied.

ORDER: The appeal is dismissed.