



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

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

In Re: 23696897

Date: JULY 21, 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, Application for Replacement Naturalization/Citizenship Document (Form N-565), concluding that the Applicant had not shown that the date of birth listed on her Certificate of Naturalization was incorrect based on a clerical error that U.S. Citizenship and Immigration Services (USCIS) made when preparing the certificate, as required.

On appeal, the Applicant asserts that she naturalized under an incorrect day and year of birth that had been provided by the person who prepared her Form N-400, Application for Naturalization (Form N-400), and therefore her request for a change in date of birth on a new Form N-565 is justified. 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 she was born in Ecuador on [redacted] 7, 1937, rather than on the [redacted] 9, 1938 date of birth printed on her Certificate of Naturalization. According to the Applicant, the individual who prepared her Form N-400 had included an incorrect date of birth even though the Applicant claims she had given the preparer copies of identification documents with her correct date of birth of [redacted] 7, 1937. In the record before the Director, the Applicant included a new copy of an Ecuadorean birth certificate, passport, and consular card, each reflecting that her date of birth is [redacted] 7, 1937. 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 it is incorrect based on a USCIS clerical error made when preparing the certificate.

On appeal, the Applicant contends that a correction to the date of birth on her Certificate of Naturalization is justified because the person who prepared her Form N-400 had incorrectly listed the [redacted] 9, 1938 date of birth on the form, whereas the Applicant claims that she had provided evidence to show that her date of birth is [redacted] 7, 1937, and that the agency had clear and convincing evidence that this was her actual date of birth. The Applicant also states that she has obtained a copy of her Form N-400 application through a Freedom of Information Act (FOIA) request and that it does not show that she had included a birth certificate with the [redacted] 9, 1938 date of birth, as the Director had stated in a request for evidence (RFE).

The record reflects that when the Applicant was naturalized as a U.S. citizen in 1997, she was issued a Certificate of Naturalization showing that she was born on [redacted] 9, 1938. The [redacted] 9, 1938 date of birth on the Certificate of Naturalization conforms to the date of birth on the Applicant's: (1) Form N-400, Application for Naturalization; and (2) Form I-151, Alien Registration Receipt Card (showing an entry date in 1965), a copy of which she had included with her Form N-400. Moreover, on the day the Applicant naturalized in 1997, she signed: (1) the Certificate Preparation Sheet and Oath Declaration sheet, which included the [redacted] 9, 1938 date of birth; and (2) the face of her Certificate of Naturalization, thereby certifying that her pre-printed personal data on the certificate, including the date of birth of [redacted] 9, 1938, was true.<sup>1</sup>

Although the Applicant claims on appeal that the date of birth on her Form N-400 was a one-time error made by the Form N-400 preparer and that the former Immigration and Naturalization Service had clear and convincing evidence that her date of birth was [redacted] 7, 1937, the record does not support this assertion. Instead, the Applicant's administrative record shows that the Applicant has long-claimed [redacted] 9, 1938, as her date of birth. Specifically, in 1965, the Applicant submitted a Form I-485, Application for Status as a Permanent Resident, on which she claimed that her date of birth was [redacted] 9, 1938. As part of the Form I-485 filing, she included an Ecuadorean birth certificate and a 1964 Ecuadorean identification card, both showing that her date of birth was

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<sup>1</sup> In the RFE, the Director appears to have incorrectly stated that the [redacted] 9, 1938 birth certificate was part of the Form N-400 submission.

[redacted] 9, 1938. Finally, as discussed, the Applicant's Form I-151 card was issued to the Applicant with the [redacted] 9, 1938 date of birth and included as part of her Form N-400 filing. Consequently, the date of birth on her Form N-400 is not a one-time scrivener's error.

We acknowledge the Applicant now claims that her year of birth as recorded on her 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 demonstrated that either of the two conditions occurred in her case, we cannot change the date of birth on her 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 in 1997 the Applicant completed the naturalization process and swore to the facts of the Form N-400, including the date of birth of [redacted] 9, 1938, printed on her 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, her Form N-565 will remain denied.

**ORDER:** The appeal is dismissed.