



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

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

MATTER OF T-T-C-

DATE: FEB. 1, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

APPLICATION: FORM N-565, APPLICATION FOR REPLACEMENT
NATURALIZATION/CITIZENSHIP DOCUMENT

The Applicant, a native of Vietnam and a naturalized U.S. citizen, seeks a replacement Certificate of Naturalization to reflect a different name and date of birth. *See* Immigration and Nationality Act (the Act) section 343(c), 8 U.S.C. § 1454(c), and Title 8, Code of Federal Regulations, section 338.5 (8 C.F.R. § 338.5). A U.S. citizen may request a new certificate if the citizen can show that his or her name has been changed by order of any court of a competent jurisdiction, or by marriage after naturalization. A U.S. citizen may also request a replacement certificate if the citizen can show that his or her Certificate of Naturalization was issued with incorrect information because of an error by U.S. Citizenship and Immigration Services (USCIS).

The Applicant filed the above application requesting a replacement Certificate of Naturalization with a different date of birth and name. The Director, Nebraska Service Center, approved the application, in part, and issued a new certificate to reflect a change in the Applicant's last name only. The Director denied the Applicant's request for a change in her first name and also declined to change her date of birth concluding such change was not justified.

The matter is now before us on appeal. On appeal, the Applicant submits a copy of her birth certificate, which she claims shows her correct date of birth. She states she did not have legal documents to prove her age at the time she applied for naturalization, but would now like to correct the mistake. The Applicant further states she has been using a first name that is easier to pronounce than her birth name, and requests this name to be printed on the new Certificate of Naturalization.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking a replacement Certificate of Naturalization with a different date of birth and a different first name. The regulations at 8 C.F.R. § 338.5, allow replacement of certificates that have been issued with incorrect information because of USCIS error. They provide:

- (a) *Application.* 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 application for issuance of a corrected certificate may be filed, without fee, in accordance with the form instructions.

.....

(e) *Data change.* The correction will not be deemed to be justified where the naturalized person later alleges that the name or date of birth which the applicant stated to be his or her correct name or date of birth at the time of naturalization was not in fact his or her name or date of birth at the time of the naturalization.

In addition, section 343(c) of the Act, which pertains to issuance of replacement certificates after name changes, states:

If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the [Secretary of Homeland Security] finds the name of the applicant to have been changed as claimed, the [Secretary] shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

Finally, the regulations at 8 C.F.R. § 343a.1(b), provide:

A naturalized citizen whose name has been changed after naturalization by order of court or by marriage must apply for a new certificate of naturalization, or of citizenship, in the changed name.

II. ANALYSIS

The Applicant is seeking a new Certificate of Naturalization indicating her date of birth is incorrect, and her first name has changed. As stated above, USCIS will replace a Certificate of Naturalization if it was printed with a date of birth different than the one listed on the naturalization application, or USCIS made an error in preparing the certificate. An applicant may also request a new certificate when the applicant's name was changed subsequent to naturalization by marriage or a court order. The issues in this case, therefore, are whether the Applicant has established that the date of birth on her Certificate of Naturalization is different than the one she listed on the naturalization application, and whether she has demonstrated that her first name was changed after marriage or by a court order.

The Applicant states on appeal she did not have evidence of her correct date of birth at the time of adjustment of status and naturalization, because she was a refugee, and she fled Vietnam without sufficient documentation. She further contends she has been issued other identity documents, including a social security card and a state driver's license with a new first name.

(b)(6)

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Upon review of the entire record, which includes copies of the Applicant's identity documents, her passports, and birth and marriage certificates, we conclude the Applicant is not entitled to a replacement certificate because she has not established the date of birth printed on her current certificate is different than the one she claimed in naturalization proceedings. Furthermore, we find the Applicant is not eligible for a certificate with a different first name because she has not shown her first name was changed by marriage or by a court order.

A. Eligibility for Date of Birth Correction

The record reflects the Applicant was issued a Certificate of Naturalization with a [REDACTED] 1965, date of birth. The Applicant asserted this date of birth was incorrect and requested a replacement certificate. With her Form N-565, the Applicant submitted a copy of an extract from her Vietnamese birth certificate, which shows she was born on [REDACTED] 1963.

The Director denied the application finding that because the date of birth on the Applicant's Certificate of Naturalization was the same as the one she attested to in naturalization proceedings as her true date of birth, issuance of a replacement certificate was not justified.

The Applicant states on appeal that her true date of birth is [REDACTED] 1963, but that she did not have documents to prove it when she applied for naturalization. The Applicant further claims her father made a mistake when he indicated on immigration forms the Applicant was born in 1965, and she now wants to correct it.

We find the Applicant is not eligible for issuance of a replacement certificate with the [REDACTED] 1963, date of birth, because she attested in naturalization proceedings she was born on [REDACTED] 1965, and there was no error by USCIS.

The record reflects that on the Form N-400, Application to File Petition for Naturalization, the Applicant represented his date of birth as [REDACTED] 1965. The Applicant signed the Form N-400 at the conclusion of her naturalization interview in 1986, affirming that all information on the form, including her date of birth was correct. Moreover, the record contains other immigration forms on which the Applicant's date of birth is listed as [REDACTED] 1965, including two Form G-325A, Biographic Information, the Applicant signed in 1980 and 1985. The same date of birth is listed on the Applicant's U.S. passport and her California driver's license.

The Applicant has now provided a copy of her birth certificate, which indicates she was born in 1963, as she claims. However, this birth certificate was not part of the record at the time of the Applicant's naturalization, and the Applicant affirmed on the naturalization application and during the interview she was born on [REDACTED] 1965. The record does not indicate the Applicant claimed in naturalization proceedings that this date was incorrect, or that she attempted correct it, prior to taking oath of naturalization.

(b)(6)

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The Applicant has therefore not demonstrated her Certificate of Naturalization does not conform to the information on her naturalization application or that it contains clerical errors attributable to USCIS.

We recognize the Applicant's statement that when she first arrived in the United States her father mistakenly reported she was born in 1965, and she did not have documents to prove she was born in 1963. However, the regulation at 8 C.F.R. § 338.5(e) does not allow for a correction to be made to a Certificate of Naturalization where the naturalized person later alleges that the date of birth which he or she confirmed to be the correct date of birth at the time of naturalization was not in fact the person's date of birth. The regulations authorize such correction only in cases where USCIS error is established.

As we do not find USCIS error in this case, we conclude the Applicant is not entitled to a replacement certificate with the [REDACTED] 1963, date of birth she requested.

B. Eligibility for First Name Change

The record reflects the Applicant claimed at the time of naturalization her name was [REDACTED]. On the Form N-565, the Applicant indicated this name has been changed to [REDACTED] by marriage, and requested a new Certificate of Naturalization. In support of this request, the Applicant submitted a copy of a California Certificate of Registry of Marriage, which shows she married [REDACTED]. The Director issued a new certificate recognizing that the Applicant's last name has been changed to [REDACTED] as a result of the marriage.

On appeal, the Applicant states she has been using the name [REDACTED] for the last 30 years, and that this name is printed on her social security and identity documents. The Applicant has submitted copies of her social security card, her U.S. passport and California driver's license as evidence that her name is [REDACTED]. She requests a new Certificate of Naturalization to reflect that name.

We find, however, that the Applicant is not eligible for issuance of a new certificate with the first name she requests.

The Act and the regulations allow issuance of a replacement Certificate of Naturalization to reflect a change in a name by a court order or by marriage. In this case, there is no evidence the Applicant's first name was changed when she was married. Furthermore, the Applicant has not submitted documents to show her first name was changed from [REDACTED] to [REDACTED] by a court order. While the Applicant was issued some documents by the state and federal authorities with that name, those documents, without more, do not evidence a legal name change. Neither section 343(c) of the Act

¹ The Applicant was married in [REDACTED] 1986, after she filed Form N-400, but before naturalization in September 1986. While the Applicant disclosed the marriage at the time of the naturalization interview, she did not request that her last name be changed. The Applicant states on appeal she did not know she could request a name change in naturalization proceedings.

nor the regulations at 8 C.F.R. § 343a.1(b) authorize USCIS to issue a replacement Certificate of Naturalization reflecting a name change unless the name was changed by marriage or an order of the court.

Because the Applicant has not submitted evidence her first name was changed by marriage or by a court order, we conclude the Applicant has not demonstrated she is entitled to a replacement certificate reflecting a change in her first name.

III. CONCLUSION

The burden of proof in these proceedings rests with the Applicant. A replacement Certificate of Naturalization reflecting a different date of birth may be issued only if it does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate, and a replacement certificate with a changed name may be issued only if that name was changed by marriage or by a court order. The Applicant has not established eligibility for issuance of a new Certificate of Naturalization because she has not demonstrated that her date of birth on the Certificate of Naturalization was printed incorrectly because of USCIS error, or that her first name was changed by marriage or by court order.

ORDER: The appeal is dismissed.

Cite as *Matter of T-T-C-*, ID# 86107 (AAO Feb. 1, 2017)