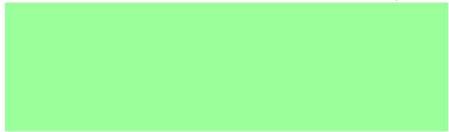




U.S. Citizenship
and Immigration
Services

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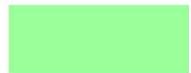


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APR 15 2013

Office: BALTIMORE, MD

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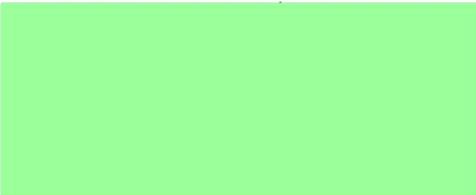
Respondent:



APPLICATION:

Cancellation of Certificate of Naturalization under Section 342 of the Immigration and Nationality Act; 8 U.S.C. § 1453.

ON BEHALF OF RESPONDENT:



Es
Section 342

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The respondent's certificate of naturalization was cancelled by the District Director, Baltimore, Maryland, and the director's decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On October 16, 2012, the district director issued a decision cancelling the respondent's certificate of naturalization. The district director's decision was based on a finding that the respondent's naturalization was unlawfully obtained from Robert Schofield, a former U.S. Citizenship and Immigration Services (USCIS) employee. In 2006 Mr. Schofield pled guilty to, and in 2007 was convicted of, among other crimes, unlawfully procuring naturalization by providing certificates of naturalization to individuals who were not entitled to U.S. citizenship.¹

On appeal, the respondent, through counsel, maintains that he properly naturalized and that the director failed to establish that he engaged in any wrongdoing. *See* Appeal Brief. He states that he properly filed his naturalization application, and was fingerprinted in connection with his application and interviewed with respect to his eligibility, was approved and took the Oath of Allegiance. *Id.* He further maintains that USCIS should be estopped from cancelling his certificate of naturalization. *Id.*

Section 342 of the Act, 8 U.S.C. § 1453, provides, in relevant part, that:

The [Secretary of the Department of Homeland Security] is authorized to cancel any certificate of . . . naturalization . . . if it shall appear to [her] satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, [her] or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefore and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

The regulations at 8 C.F.R. § 342 outline the process for cancellation of a certificate of naturalization under the Act. The AAO notes that the district director properly notified the respondent of his intent to cancel the certificate of naturalization and afforded him an opportunity to respond as required by the Act and the regulations.

The respondent's immigration files, [REDACTED] and [REDACTED] do not contain a naturalization application or any record of a naturalization proceeding. USCIS systems do not indicate that the respondent ever filed a naturalization application or that such an application was processed. Other than a fingerprinting notice, the applicant has no copies of any application

¹ *United States v. Schofield*, No. 06 CR 00427 (E.D. Va. Apr. 20, 2007).

receipts or any other evidence demonstrating that he applied for naturalization as claimed. The applicant claims he was interviewed in Arlington, Virginia, even though his residence is in Maryland and jurisdiction over a naturalization application would have rested with the Baltimore USCIS office, not Washington, D.C. The record lacks any evidence that a naturalization application was properly received, adjudicated or approved; that the respondent was ever properly interviewed or that he took the oath of allegiance. Rather, the record indicates that the applicant's certificate of naturalization, number [REDACTED] was issued by Mr. Schofield in December 2001 and does not correspond to any individual within USCIS records.

On appeal, the respondent maintains that he was eligible for citizenship, properly applied for naturalization, was interviewed and took the oath of allegiance. The respondent further claims that there is no evidence that Mr. Schofield processed the respondent's naturalization application. The respondent claims that, in any event, he did not himself engage in any wrongdoing. Regardless of the respondent's culpability or lack thereof, the evidence of record clearly establishes that his certificate of naturalization was obtained through Mr. Schofield's wrongful acts. The certificate of naturalization was unlawfully procured by Mr. Schofield, and not provided to the respondent after the completion of a lawful naturalization process. Counsel further claims that USCIS should be estopped from cancelling the naturalization certificate. There is no support for counsel's argument that USCIS must be estopped due to the passage of time from cancelling an illegally obtained certificate of naturalization.

The record clearly establishes that the respondent's certificate of naturalization was obtained through the unlawful acts of Mr. Schofield. The certificate of naturalization does not correspond to any individual within USCIS records. In addition, although the respondent claims his naturalization application was properly filed and approved, USCIS records show otherwise.

The burden of proof in cancellation proceedings is on the government, and cancellation of a certificate of naturalization is authorized "if it shall appear to [the] satisfaction" of the Secretary of the Department Homeland Security" that the certificate was illegally or fraudulently obtained. Here, the district director has met his burden of proof and shown that the respondent's certificate of naturalization was illegally obtained and properly cancelled. The respondent's appeal will therefore be dismissed.

ORDER: The appeal is dismissed.