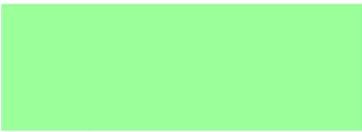


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

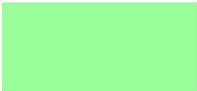


U.S. Citizenship
and Immigration
Services

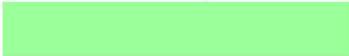


Date: **NOV 25 2013**

Office: WASHINGTON, DC

FILE: 

IN RE:

RESPONDENT: 

APPLICATION:

Cancellation of Certificate of Naturalization Pursuant to Section 342 of the Immigration and Nationality Act, 8 U.S.C. § 1453

ON BEHALF OF RESPONDENT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. Please review the **Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to be "Ron Rosenberg", written over the "Thank you," text.

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The District Director, Washington, D.C., cancelled the respondent's certificate of naturalization pursuant to section 342 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1453. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On May 21, 2013, 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 In his plea, Mr. Schofield identified the respondent as one of nearly 200 individuals to whom he illegally issued certificates of naturalization.

On appeal, the respondent, through counsel, maintains that he did not procure his certificate of naturalization through fraud. See Statement of the Respondent on Form I-290B, Notice of Appeal to the AAO. The respondent claims that the irregularities discovered in the adjudication of his application do not establish any wrongdoing on his part. See Appeal Brief. The respondent further states that the government should now be "estopped by laches" from cancelling his certificate of citizenship. *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 [his] satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him 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 her intent to cancel the certificate of naturalization and afforded him an opportunity to respond as required by the Act and the regulations.

The respondent twice applied for naturalization in 1997, but his applications were denied for failure to demonstrate the ability to understand and speak the English language. USCIS records show further that a third application for naturalization was filed by the applicant in 2002 and initially

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

deemed abandoned and denied. A motion to reopen that application was granted in 2004, but the respondent failed to appear for his interview, and the application was administratively closed. The respondent's file reflects that his naturalization application was not adjudicated or approved. Nevertheless, the respondent obtained a certificate of naturalization, Number [REDACTED]. This certificate was issued by Mr. Schofield, and is the subject of these cancellation proceedings.

USCIS records show that the respondent's naturalization applications were denied or administratively closed. The evidence in the record establishes that the respondent's certificate of naturalization number [REDACTED] was obtained through the unlawful acts of Mr. Schofield.

On appeal, the respondent states that his certificate was not fraudulently procured, because, in part, the processes and records of the legacy Immigration and Naturalization Service were notoriously mismanaged. *See* Appeal Brief. The respondent also asserts that he did not encourage or conspire with Mr. Schofield. *Id.* Regardless of the respondent's culpability or lack thereof, the evidence of record clearly establishes that the respondent's certificate of naturalization was obtained from Mr. Schofield, through fraud, regardless of the respondent's eligibility for naturalization. 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 also asserts that USCIS should be estopped by laches for bringing a cancellation action years after the respondent's certificate of naturalization was issued. *See* Appeal Brief. Section 342 of the Act, however, does not contain a statute of limitations nor does counsel cite any authority for estoppel through laches in the cancellation of citizenship process. It is well-established that U.S. citizenship cannot be obtained through estoppel. A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Where, as here, a certificate of naturalization was issued without regard to the respondent's eligibility for U.S. citizenship, cancellation of the certificate is warranted and cannot be estopped.

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 her 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.