



U.S. Citizenship
and Immigration
Services

E5

[REDACTED]

Date: **DEC 18 2012** Office: NEW YORK, NY

FILE: [REDACTED]

IN RE: Respondent: [REDACTED]

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

ON BEHALF OF RESPONDENT:

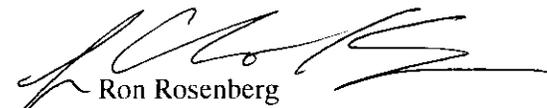
[REDACTED]

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, New York, New York, and the director's decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On August 15, 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 [REDACTED] a former U.S. Citizenship and Immigration Services (USCIS) employee. In 2006 [REDACTED] 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 [REDACTED] did not participate in his naturalization process. See Appeal Brief. He states that he properly filed his naturalization application, and was interviewed with respect to his eligibility, was approved and took the Oath of Allegiance. *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 her intent to cancel the certificate of naturalization and afforded her an opportunity to respond as required by the Act and the regulations.

The respondent's immigration file contains a naturalization application and a receipt dated September 15, 1999. However, the record lacks evidence that the respondent's application was properly received, adjudicated or approved; and that the respondent was ever properly interviewed and took the oath of allegiance. The applicant's certificate of naturalization number 24352765, issued by [REDACTED] in February 1999, 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 asserts that he

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

does not know if the officer who interviewed him and administered the oath of allegiance was [REDACTED]. Counsel further claims even if he engaged in fraud in other cases, there is no evidence that [REDACTED] approved the respondent's naturalization application through fraud. The record clearly establishes that the respondent's certificate of naturalization was obtained through the unlawful acts of [REDACTED]. The respondent's 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, the record shows otherwise. The application was allegedly approved and the respondent's certificate was allegedly issued on February 2, 1999, but the respondent's fee receipt for the naturalization application is dated seven months later on September 15, 1999. The certificate of naturalization was illegally procured by [REDACTED] and not provided to the respondent after the completion of a lawful naturalization process.

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.