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



U.S. Citizenship  
and Immigration  
Services

E5

[Redacted]

Date: Office: NEW YORK, NY

FILE: [Redacted]

IN RE: **JUL 27 2012** 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:

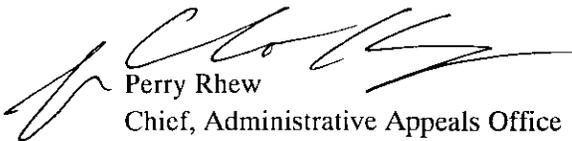
[Redacted]

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,

  
Perry Rhew  
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 March 19, 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.<sup>1</sup> In his plea, [REDACTED] 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 never procured or received a certificate of naturalization, illegally or otherwise, from [REDACTED]. See Statement of the Respondent on Form I-290B, Notice of Appeal to the AAO and Appeal Brief. The respondent indeed does not object to the cancellation of the naturalization certificate at issue, number 2695554. *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 him an opportunity to respond as required by the Act and the regulations.

The respondent applied for naturalization in 2006, but his application was withdrawn. According to the respondent, he voluntarily withdrew his naturalization application and notified USCIS that his lawful permanent resident status had been obtained fraudulently. See Respondent's Affidavit. The respondent further explains that he has since been in removal

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

proceedings, and that those proceedings resulted in his lawful permanent resident status being reinstated. *Id.*

USCIS records show that the respondent has filed two naturalization applications, one in 2006 and one in 2011, and that they both remain adjudicated. A certificate of naturalization (number [REDACTED] was issued in 2002 to the respondent by [REDACTED]. That certificate does not correspond to the respondent's alien registration number (A-number), but contains an A-number assigned to another individual. There is no evidence that the respondent's 2006 naturalization application was ever approved. The record confirms that certificate of naturalization number [REDACTED] was issued to the respondent in 2002 through the unlawful acts of [REDACTED].

On appeal, the respondent does not dispute that certificate of naturalization number [REDACTED] was illegally issued. Rather, the respondent maintains that he did not engage in any fraud, never represented himself to be a U.S. citizen, had no knowledge of the certificate being illegally issued, and never actually obtained the certificate. Counsel claims that USCIS is collaterally estopped from litigating the issue of whether the respondent fraudulently obtained a naturalization certificate because the issue was litigated, and resolved in favor of the respondent, in his removal proceedings. *See* Appeal Brief.

Whether or not the respondent himself engaged in fraud in obtaining the certificate of naturalization is not at issue in these proceedings. Section 342 of the Act authorizes the cancellation of a certificate of naturalization that was "created through illegality or by fraud practiced upon" USCIS. The evidence of record clearly establishes that the respondent's certificate of naturalization was created through illegality and fraud practiced upon USCIS by Mr. Schofield.

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 created through illegality or fraud practiced upon USCIS. Here, the district director has met her burden of proof and shown that certificate of naturalization number [REDACTED] was created through illegality and fraud practiced upon USCIS by [REDACTED] in the respondent's name. Accordingly, the certificate was properly cancelled by the director. The respondent's appeal will therefore be dismissed.

**ORDER:** The appeal is dismissed.