



U.S. Citizenship
and Immigration
Services

Identifying data deleted to
prevent identity unwarranted
invasion of personal privacy

PUBLIC COPY

E5



Date: JUN 18 2012

Office: SAN DIEGO, CA



IN RE: Respondent:



APPLICATION: Cancellation of Certificate of Citizenship under 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 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 with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. 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 citizenship was canceled by the District Director, San Diego, California, and the district director's decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On January 9, 2012, the district director issued a decision canceling the respondent's certificate of citizenship. The district director's decision was based on a finding that the respondent's mother'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, [REDACTED] identified the respondent's mother as one of nearly 200 individuals to whom he illegally issued certificates of naturalization. The director found that because the respondent's mother's naturalization was illegally procured, the respondent did not derive U.S. citizenship upon her mother's naturalization and that she was not eligible for a certificate of citizenship.

On appeal, the respondent, through counsel, maintains that she was a minor at the time her citizenship certificate was issued and that she lacked any fraudulent intent or knowledge. *See* Statement of the Respondent on Form I-290B, Notice of Appeal to the AAO; *see also* Applicant's Appeal Brief.

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 citizenship . . . 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 therefor 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 under the Act. The district director properly notified the respondent of his intent to cancel the certificate of citizenship and afforded her an opportunity to respond as required by the Act and the regulations.

The respondent's citizenship certificate, number 2222322, was issued in 2006 on the basis of her mother's naturalization. As noted above, the respondent's mother's certificate of naturalization was illegally obtained from [REDACTED], and has since been canceled. The respondent

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

therefore did not derive U.S. citizenship upon her mother's naturalization, and her certificate of citizenship, which is the subject of these cancellation proceedings, was illegally and fraudulently obtained and improvidently issued.

The respondent, through counsel, maintains that she was a minor when her certificate of citizenship was issued and, as such, she lacked any fraudulent intent or knowledge. Regardless of the respondent's culpability or lack thereof, the evidence of record clearly establishes that her certificate was obtained on the basis of her mother's fraudulently procured naturalization certificate.

The burden of proof in cancellation proceedings is on the government, and cancellation of a certificate of citizenship 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 citizenship was illegally obtained and properly canceled. The respondent's appeal will therefore be dismissed.

ORDER: The appeal is dismissed.