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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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[redacted]

Date: JUN 1 9 2012 Office: WASHINGTON, DC [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. 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 canceled by the District Director, Washington, D.C., and the director's decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On March 20, 2012, the district director issued a decision canceling 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 a former U.S. Citizenship and Immigration Services (USCIS) employee. In 2006 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, 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 illegally or 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 from canceling 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 [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 1994, but his application was denied for failure to demonstrate the ability to understand and speak the English language. USCIS records show that the respondent filed a second Form N-400, Application for Naturalization, in 2001. That application was administratively closed after the respondent failed to appear at a scheduled

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

interview. Nevertheless, the respondent obtained a certificate of naturalization, Number This certificate number does not correspond to any A-number in USCIS records, was issued by , and is the subject of these cancellation proceedings.

USCIS records show that the respondent's naturalization applications, filed in 1994 and 2001, were denied. The evidence in the record establishes that the respondent's certificate of naturalization number was obtained through the unlawful acts of

On appeal, the respondent states that his certificate was not illegally or fraudulently procured, because, in part, the processes and records of the legacy Immigration and Naturalization Service were notoriously mismanaged and he did not encourage or conspire with . *See* Appeal Brief. 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 through fraud, regardless of the respondent's eligibility for naturalization. The certificate of naturalization was unlawfully procured by , and not provided to the respondent after the completion of a lawful naturalization process.

Counsel also claims that USCIS should be estopped by laches for bringing a cancellation action years after the respondent's certificate of naturalization was issued. Section 342 of the Act, however, does not contain a statute of limitations nor does counsel cite any authority for estoppel through laches in 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 his burden of proof and shown that the respondent's certificate of naturalization was illegally obtained and properly canceled. The respondent's appeal will therefore be dismissed.

ORDER: The appeal is dismissed.