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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

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Date: **MAR 19 2012**

Office: WASHINGTON, D.C.

FILE:

IN RE:

Respondent:

APPLICATION:

Cancellation of Certificate of Naturalization 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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must 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, Washington, D.C., and the director's decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On September 21, 2011, 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 she did not illegally procure her certificate of naturalization. See Statement of the Respondent on Form I-290B, Notice of Appeal to the AAO. The respondent claims that Mr. Schofield's misconduct was beyond her control. *Id.* She further states that she properly filed her naturalization application, and was interviewed with respect to her eligibility for naturalization. *Id.* Finally, she states that USCIS has no authority to revoke her U.S. citizenship. *Id.* Counsel indicated on the Form I-290B that he would submit a brief within 30 days, or by November 26, 2011. To date, over three months later, the AAO has received no brief or further correspondence from counsel or the respondent.

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 applied for naturalization in 2004 and was interviewed in 2005, but failed to establish her eligibility for U.S. citizenship at that time. USCIS records show that the

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

respondent's naturalization application remains pending and unadjudicated. Nevertheless, the respondent obtained a certificate of naturalization, Number [REDACTED] from Mr. Schofield. That certificate, Number [REDACTED] is the subject of these cancellation proceedings.

There is no evidence that the respondent's naturalization application was ever approved. Rather, USCIS records show the application as unadjudicated. Although the respondent obtained a certificate of naturalization numbered [REDACTED] that certificate does not correspond to her alien registration number in USCIS records. The evidence in the record establishes that the respondent's certificate of naturalization was obtained through the unlawful acts of Mr. Schofield.

On appeal, the respondent does not dispute that her naturalization certificate was obtained from Mr. Schofield, but rather argues that her certificate should not be cancelled based upon circumstances beyond her control. The respondent maintains that her U.S. citizenship cannot be revoked without a judicial denaturalization process. Counsel cites cases concerning judicial denaturalization or revocation of naturalization under section 340 of the Act, 8 U.S.C. § 1451. However, those cases are inapplicable to these administrative proceedings regarding the cancellation of the respondent's certificate of naturalization under section 342 of the Act.

The evidence of record clearly establishes that the respondent's certificate of naturalization was obtained through fraud and despite the respondent's ineligibility 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.

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.