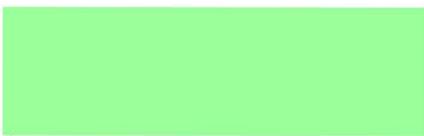


(b)(6)

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

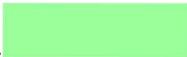


U.S. Citizenship  
and Immigration  
Services

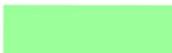


Date: **DEC 12 2013**

Office: LOS ANGELES, CA

FILE: 

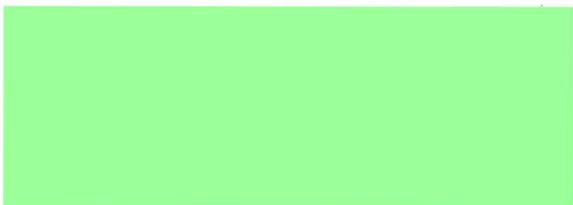
IN RE:

RESPONDENT: 

APPLICATION:

Cancellation of Certificate of Naturalization Pursuant to 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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The District Director, Los Angeles, California, cancelled the respondent's certificate of citizenship pursuant to section 342 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1453. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On July 22, 2013, the district director issued a decision cancelling the respondent's certificate of citizenship. The district director's decision was based on a finding that the respondent's father's naturalization was unlawfully obtained from [REDACTED] a former U.S. Citizenship and Immigration Services (USCIS) employee. In 2006 Mr. [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, Mr. [REDACTED] identified the respondent as one of nearly 200 individuals to whom he illegally issued certificates of naturalization.

On appeal, the respondent asserts that he was properly admitted to the United States, first as a non-immigrant and then as a lawful permanent resident. *See* Appeal Brief. The respondent states that his immigration file was mishandled and probably lost and reconstructed, and cannot form the basis for cancellation of his certificate of citizenship. *Id.* The respondent claims that cancellation of his certificate would amount to a violation of due process. *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 [his] satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him 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's citizenship certificate, number [REDACTED] was issued in 2004 on the basis of his father's naturalization. As noted above, the respondent's father's certificate of naturalization was illegally obtained from Mr. [REDACTED] and has since been canceled. The respondent therefore did not derive U.S. citizenship upon his father's naturalization, and his certificate of citizenship, which is

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<sup>1</sup> [REDACTED]

the subject of these cancellation proceedings, was illegally and fraudulently obtained and improvidently issued.

The respondent states that he was 17 at the time his certificate was issued and questions why his parent would fraudulently obtain U.S. citizenship when legal means were available. *See* Appeal Brief. Regardless of the respondent's or his parents' culpability or lack thereof, or the availability of a legal way for his parents to naturalize, the evidence of record clearly establishes that his certificate was obtained on the basis of his father's fraudulently procured naturalization certificate. The district director therefore properly cancelled the respondent's certificate.

The respondent asserts that cancellation of his certificate is a due process violation. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), constitutional due process claims are not within the jurisdiction of the AAO. As noted above, the district director proceeded to cancel the respondent's certificate in accordance with the regulations at 8 C.F.R. § 342, properly notifying him of her intent to cancel the certificate and affording him an opportunity to respond.

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.