

(b)(6)



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

Date: **DEC 19 2013** Office: BALTIMORE, MD [REDACTED]

IN RE: RESPONDENT: [REDACTED]

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:

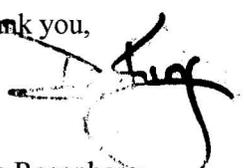
[REDACTED]

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,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The District Director, Baltimore, Maryland, cancelled the respondent's certificate of naturalization 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 August 16, 2013, 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.<sup>1</sup> 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 maintains that the district director erred in cancelling her certificate because (1) she was not afforded an opportunity to respond and be represented by counsel, (2) no good cause exists to cancel a certificate where she was not at fault, was otherwise eligible, and has been a resident of the United States for over 21 years. *See* Statement of the Respondent on Form I-290B, Notice of Appeal to the AAO.

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 district director properly notified the respondent of his intent to cancel the certificate of naturalization and afforded her an opportunity to respond as required by the Act and the regulations. On July 16, 2013, the applicant was sent a notice to appear for an interview. At that time, the applicant was unrepresented. The applicant did not appear at the scheduled interview, on August 5, 2013. On or about August 12, 2013, the applicant's prior counsel submitted page 2 of Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. On August 16, 2013, the district director issued his decision. The AAO finds that the district director properly cancelled the respondent's certificate in accordance with the regulations.

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

USCIS records reveal that the respondent obtained her certificate of naturalization without submitting a naturalization application, undergoing the naturalization examination or taking the Oath of Allegiance. The respondent's certificate, Number [REDACTED] does not correspond to her or any other alien registration number and was issued by Mr. Schofield. 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 states that her certificate was erroneously cancelled because she was not afforded an opportunity to respond or be represented by counsel. *See* Appeal Brief. As noted above, the district director followed the regulations in notifying the respondent of his intent to cancel her certificate and doing so only after affording her the required opportunity to respond. The respondent's prior counsel had failed to properly enter his appearance. The respondent also claims that she was not at fault and was in fact eligible for naturalization, and is therefore deserving of a certificate of naturalization. Lastly, the respondent claims that her certificate should not be cancelled on the basis of her lengthy residence in the United States. *See* Appeal Brief. Regardless of the respondent's culpability or lack thereof, or her lengthy residence in the United States, the evidence of record clearly establishes that the respondent's certificate of naturalization was obtained from Mr. Schofield, through fraud. The certificate of naturalization was unlawfully procured by Mr. Schofield, and not provided to the respondent after the completion of a lawful naturalization process.

Section 342 of the Act does not contain a statute of limitations, nor is there any authority in support of the claim that a certificate of naturalization should not be cancelled based on a respondent's length of residence in the United States or ineffective assistance of counsel. It is well-established that U.S. citizenship cannot be obtained through estoppel or similar equitable grounds. 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. Moreover, the jurisdiction of the AAO is limited to the authority specifically granted through the regulations at Volume 8 of the Code of Federal Regulations (8 C.F.R.) section 103.1(f)(3)(iii) (as in effect on Feb. 28, 2003) and subsequent amendments. Ineffective assistance of counsel claims and due process arguments go beyond the purview of this administrative appeal and are outside the jurisdiction of this office.

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.