



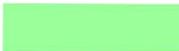
U.S. Citizenship
and Immigration
Services

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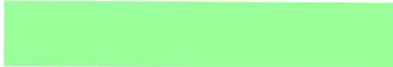


Date: NOV 04 2013

Office: WASHINGTON, DC

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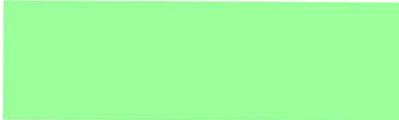
IN RE:

Respondent: 

APPLICATION:

Cancellation of Certificate Pursuant to Section 342 of the Immigration and Nationality Act, 8 U.S.C. § 1453

ON BEHALF OF APPLICANT:



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 (director), Washington, D.C., cancelled the applicant's certificate of naturalization and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal was initially rejected as untimely filed. The respondent has now submitted evidence that the rejection was unwarranted. The matter will be reopened *sua sponte*. The appeal will be dismissed.

On February 21, 2013, the 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 [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.¹

On appeal, the respondent, through counsel, maintains that the cancellation of her certificate of naturalization was not supported by the evidence. See Statement of the Applicant on Form I-290B, Notice of Appeal or Motion.

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 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's immigration file contains a naturalization application filed in 1998 and denied in 1999, upon the respondent's failure to pass the required naturalization examinations. The respondent's file also contains a second naturalization application filed in 2003. The record indicates that the applicant failed to appear at her scheduled interview on February 2, 2004. Instead, the applicant attended an interview conducted by Mr. [REDACTED]. The record indicates that the respondent's certificate of naturalization (number 28231752) was unlawfully issued by Mr. [REDACTED].

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

Although the respondent obtained a certificate of naturalization, the evidence in the record establishes that the respondent's certificate of naturalization was obtained through the unlawful acts of Mr. [REDACTED]. Regardless of the respondent's culpability or lack thereof, 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. [REDACTED] 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.