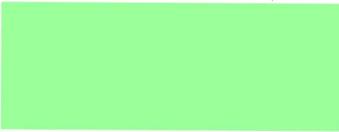




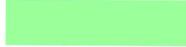
U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **DEC 31 2014**

Office: NEWARK, NJ

FILE: 

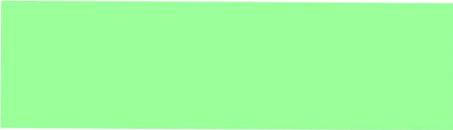
IN RE:

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:

The Administrative Appeals Office (AAO) is reopening your case for the sole purpose of correcting errors in the drafting of the decision. Otherwise, the substance of the decision remains the same.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Newark District Director (director) cancelled the respondent's certificate of naturalization and the matter was before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed on June 19, 2014. The applicant has filed a motion to reopen and reconsider. The motion is untimely. The matter will nonetheless be reopened *sua sponte* to correct several drafting mistakes; therefore, our June 19, 2014 decision will be withdrawn. The appeal will remain dismissed.

*Pertinent Facts and Procedural History*

On October 25, 2013, the director issued a decision cancelling the respondent's certificate of naturalization. The 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.<sup>2</sup>

On appeal, the respondent maintains that her certificate was "erroneously cancelled." See Statement of the Respondent on Form I-290B, Notice of Appeal or Motion. The respondent states that the allegations of a convicted felon and administrative errors are not appropriate grounds for cancellation of a naturalization certificate. *Id.* Finally, the respondent claims that the cancellation hearing was incomplete in violation of her due process rights. *Id.*

We dismissed the respondent's appeal and the respondent has now filed a motion to reopen and reconsider. The motion was untimely filed, but we will nonetheless reopen the matter to correct errors in the drafting of the decision, which mistakenly included references to the respondent's parents. The substance of the decision remains the same.

*Applicable Law*

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 [the Secretary of the Department of Homeland Security's] 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

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

<sup>2</sup> In our June 19, 2014 decision, we mistakenly referred to the respondent's parents instead of the respondent.

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 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.

#### *Analysis*

The evidence in the record establishes that the applicant obtained her naturalization certificate from Mr. Schofield. The record further demonstrates that the applicant's naturalization certificate was illegally issued. USCIS records reveal that the respondent obtained her certificate of naturalization without properly submitting a naturalization application, undergoing the naturalization examination or taking the Oath of Allegiance. The respondent's original certificate Number [REDACTED] corresponds to another alien registration number and not the respondent's. 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 asserts that her certificate was erroneously cancelled because she was not afforded a complete hearing. *See* Statement of the Respondent on Form I-290B, Notice of Appeal or Motion. The respondent also claimed that she was not at fault, and that the cancellation of her certificate should be set aside on constitutional or equitable grounds. *Id.* As noted above, the 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 director rescheduled the respondent's hearing on multiple occasions and invited respondent's counsel to submit additional evidence. The respondent appeared for a hearing on November 20, 2012. Her former counsel subsequently agreed to proceed without further hearings.

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. Due

process claims go beyond the purview of this administrative appeal and are outside the jurisdiction of this office. 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 Mr. Schofield through fraud. The certificate of naturalization was unlawfully procured by Mr. Schofield, and was not provided to the respondent after the completion of a lawful naturalization process.

*Conclusion*

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 director has met his burden of proof and shown that the respondent's naturalization certificate was illegally obtained and properly cancelled.

**ORDER:** The matter is reopened *sua sponte*. The AAO's June 19, 2014 decision is withdrawn. The appeal is dismissed and the certificate remains cancelled.