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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: **MAY 30 2014**

Office: CHICAGO, IL

FILE: [REDACTED]

IN RE:

Respondent: [REDACTED]

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", written over the "Thank you," text.

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The District Director (director), Chicago, Illinois, cancelled the applicant's certificate of naturalization and the matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was rejected as untimely filed. The matter will be reopened. The appeal will be dismissed.

Pertinent Fact and Procedural History

On May 8, 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.¹ In his plea, Mr. Schofield identified the respondent's parents as two of nearly 200 individuals to whom he illegally issued certificates of naturalization.

On appeal, the respondent, through counsel, maintains that her certificate was not properly cancelled. *See* Appeal Brief. The respondent claims that her citizenship claim was erroneously considered only under section 320 of the Act, 8 U.S.C. § 1431. *Id.* The respondent maintains that she was eligible for a certificate of citizenship under section 322 of the Act, 8 U.S.C § 1433, which does not require that she establish lawful permanent residence. *Id.* The respondent states that her parent's certificates of naturalization were improperly obtained. *Id.*

The appeal was initially rejected as untimely filed. *See* Decision of the AAO, dated September 9, 2013. The respondent, through counsel, has submitted evidence that the appeal was in fact timely filed. *See* Counsel's submission dated March 18, 2014. Based upon the evidence received, it is established that the appeal was timely. The matter is therefore reopened.

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 [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.

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

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 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's parents obtained their naturalization certificates from Mr. Schofield. The record further demonstrates that the applicant's certificate of citizenship was illegally issued, without regard to her eligibility to derive U.S. citizenship under any section of the Act. The respondent cannot establish that she applied for adjustment of status or that she obtained lawful permanent residence. The respondent also cannot establish that her parents lawfully obtained their naturalization certificates after the required naturalization process. As previously noted, the respondent's parents obtained their certificates of naturalization through the unlawful acts of Mr. Schofield. The evidence in the record demonstrates that the applicant's certificate was also obtained from Mr. Schofield.

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 her burden of proof and shown that the respondent's certificate of citizenship was illegally obtained and properly cancelled. The respondent's appeal will therefore be dismissed.

ORDER: The matter is reopened. The AAO's September 9, 2013 decision is withdrawn. The appeal is dismissed. The certificate remains cancelled.