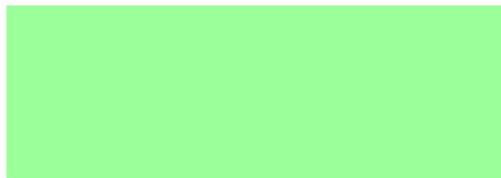




U.S. Citizenship
and Immigration
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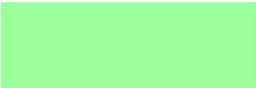


Date: **JAN 14 2015**

Office: BANGKOK, THAILAND

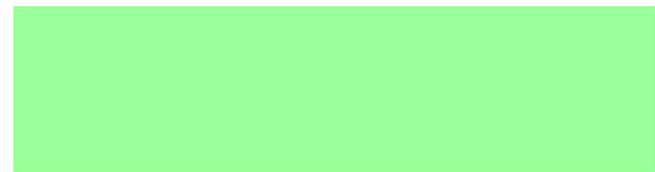
FILE: 

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:

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 Director, Bangkok District Office (the director) cancelled the respondent's certificate of naturalization and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Pertinent Facts and Procedural History

On July 11, 2014, 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 as one of nearly 200 individuals to whom he illegally issued certificates of naturalization.

On appeal, the respondent maintains that the director failed to follow the proper cancellation procedures by denying her the opportunity to cross-examine Mr. Schofield and holding her cancellation hearing in China. *See* Respondent's Appeal Statement. The respondent further states that her certificate should not be cancelled on the basis of the testimony of a convicted felon. *Id.*

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 [his] satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, [the Secretary of Homeland Security] 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.

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

Analysis

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. Contrary to the respondent's claim on appeal, the regulations do not require that the proceedings be conducted in the United States or that the director allow the respondent to cross-examine Mr. Schofield. The regulations provide that the respondent may present evidence on her behalf and may examine or object to evidence against her. See 8 C.F.R. § 342.5. The testimony of Mr. Schofield may be considered by the director as a relevant and material prior statement under 8 C.F.R. § 342.5(d).

The evidence in the record demonstrates that the respondent's certificate of citizenship was illegally issued, without regard to her eligibility for U.S. citizenship under any section of the Act. USCIS records contain a naturalization application that was filed in 2004 and deemed abandoned in 2005. The application listed the respondent's address in Virginia, even though she was residing in Pennsylvania at the time. The application was stamped approved by Mr. Schofield on June 5, 2006, and the certificate was issued by the Washington District Office even though the respondent did not reside within its jurisdiction. The naturalization application does not contain red check marks, suggesting that it was not properly reviewed by an examiner in the course of a naturalization interview. Additionally, the record contains a civics/history test with answers written in English purportedly by the respondent in May 2006, but the respondent admits that she does not speak, read, write or understand the English language. Thus, the evidence in the record establishes that the application was not properly adjudicated, and was approved and stamped by Mr. Schofield despite the respondent's ineligibility for naturalization. The respondent's certificate, No. [REDACTED] was obtained through the unlawful acts of Mr. Schofield.

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 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 certificate of citizenship was illegally obtained and properly cancelled. The respondent's appeal will therefore be dismissed.

ORDER: The appeal is dismissed. The certificate remains cancelled.