



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUL 30 2015**

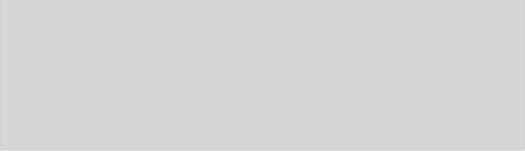
FILE #: [REDACTED]

APPLICATION RECEIPT #: [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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Field Office Director, Newark, New Jersey, cancelled the respondent's certificate of naturalization. An appeal to the Administrative Appeals Office (AAO) was dismissed. The matter is now before the AAO on a motion to reconsider. The motion will be granted, but the previous decision of the AAO will be affirmed, and the underlying appeal will remain dismissed.

The record indicates that the respondent's certificate of naturalization, issued in [REDACTED] 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. In his plea, Mr. Schofield identified the respondent as one of nearly 200 individuals to whom he illegally issued certificates of naturalization. As such, on April 16, 2014, the Field Office Director issued a decision cancelling the respondent's certificate of naturalization, as the certificate was obtained unlawfully. *See Notice of Decision and Order of Cancellation and Surrender of the Field Office Director*, dated April 16, 2014.

On appeal, we concurred with the Field Office Director that the respondent's certificate of naturalization was unlawfully procured by Mr. Schofield. Consequently, the appeal was dismissed. *See Decision of the AAO*, dated December 30, 2014.

On motion, the respondent submits a statement and a brief. In the brief, the respondent contends that USCIS erred in canceling his naturalization certificate as the evidence in the record did not support that decision, and that USCIS should be equitably estopped from cancelling his naturalization certificate due to his detrimental reliance on affirmative government misconduct.

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. We note that the Field Office Director properly notified the respondent of his intent to cancel the certificate of naturalization and afforded him an opportunity to respond as required by the Act and the regulations, and that the Field Office Director's adherence to these procedural requirements is not contested in this motion.

On motion, the respondent, through counsel, states that there is no evidence in the record to demonstrate that during the naturalization process that he knew or had reason to believe that he was doing other than what the law prescribed to him in connection with the lawful obtainment of his naturalization certificate, and that he was following the legal advice of the lawyer he had retained in connection with his naturalization proceedings.

As we noted in our previous decision, the respondent's records contain a naturalization application, listing the applicant's address in Washington, D.C. even though the applicant was residing in New Jersey at the time. Although the naturalization application contains red check marks, suggesting that the respondent attended an interview, there is no evidence in the file that the applicant was properly examined with respect to the English language and civics knowledge requirements. *See* 8 C.F.R. § 312.1 and 312.2. As such, the record indicates that the application was not properly adjudicated. Rather, the application was approved and stamped by Mr. Schofield. The respondent's certificate was thus obtained, regardless of the respondent's eligibility, through the unlawful acts of Mr. Schofield.

As also explained in our decision on appeal, section 342 of the Act does not require the applicant to know or to have reason to believe that he was doing other than what the law prescribed to him in connection with his naturalization application. Counsel's contention, that a sound reading of the statute requires an applicant's culpability, is not supported by any pertinent precedent decisions, and is unpersuasive. "There must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship. Failure to comply with any of these conditions renders the certificate of citizenship 'illegally procured,' and naturalization that is unlawfully procured can be set aside." *Fedorenko v United States*, 449 U.S. 490, 506 (1981). Regardless of the respondent's culpability or lack thereof, as explained above the evidence of record clearly establishes that he did not comply with the prerequisites to the acquisition of citizenship, and that the certificate was unlawfully procured by Mr. Schofield.

The respondent further contends that USCIS should be equitably estopped from cancelling his certificate of naturalization. The respondent concedes that there is no question that the government committed affirmative misconduct in connection with his naturalization proceedings as Mr. Schofield later pled guilty of federal charges in connection with the issuance of such certificates. The respondent contends that his situation is distinguishable from a decision in the Court of Appeals for the Ninth Circuit, in which the court found that the petitioner had knowledge of the government wrongdoing. *Shin v. Mukasey*, 547 F.3d 1019 (9th Cir. 2008). The respondent claims that, unlike the petitioner in the *Shin* case, he was an innocent dupe in Mr. Schofield's bribery and corruption scheme, and had no actual or constructive knowledge of Mr. Schofield's scheme. He therefore asserts that the government should be equitably estopped from cancelling his certificate due to his reliance upon unknown affirmative government misconduct.

It is well-established that U.S. citizenship cannot be obtained through estoppel. 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 Administrative Appeals Office, like the Board of Immigration Appeals, is without authority to apply the doctrine of equitable estoppel so as to preclude a component part of USCIS from undertaking a lawful course of action that it is empowered to pursue by statute or regulation. *See Matter of Hernandez-Puente*, 20 I&N Dec. 335, 338 (BIA 1991). Estoppel is an equitable form of relief that is available only through the courts. The jurisdiction of the Administrative Appeals Office is limited to that authority specifically granted to it by the Secretary of the United States Department of Homeland Security. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004). The jurisdiction of the AAO is limited to those matters described at 8 C.F.R. § 103.1(f)(3)(E)(m) (as in effect on February 28, 2003). Accordingly, we have no authority to address the respondent's equitable estoppel claim.

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. Section 342 of the Act. Here, the Field Office 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 motion for reconsideration will be granted, but the underlying appeal remains dismissed.

**ORDER:** The motion for reconsideration is granted, but the previous decision is affirmed, and the underlying appeal remains dismissed.