



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF Y-Q-H-

DATE: APR. 28, 2016

SUA SPONTE MOTION TO REOPEN ADMINISTRATIVE APPEALS OFFICE DECISION

CANCELLATION: ADMINISTRATIVE CANCELLATION OF CERTIFICATE, DOCUMENT,  
OR RECORD

The Appellant is a native of China who was issued a Certificate of Naturalization. He seeks review of the cancellation of his Certificate of Naturalization. *See* Immigration and Nationality Act (the Act) section 342, 8 U.S.C. § 1453. U.S. Citizenship and Immigration Services (USCIS) may cancel a Certificate of Naturalization when the document was obtained illegally or fraudulently.

The Director, Newark, New Jersey Field Office, cancelled the Appellant's Certificate of Naturalization. The Director concluded that evidence in the record established that the Appellant was not properly interviewed during his naturalization interview; that he did not take or pass required naturalization writing and reading tests during his naturalization interview; and that his naturalization was unlawfully obtained from Robert Schofield, a former USCIS employee. We dismissed the Appellant's appeal of the matter on the same grounds.

We now reconsider the matter on service motion for the limited purpose of withdrawing the statement in the first paragraph of our prior decision that the Applicant is a naturalized U.S. citizen. We will affirm our decision. The appeal will remain dismissed.

I. LAW

USCIS may cancel a Certificate of Naturalization when the document was obtained illegally or fraudulently.

Section 342 of the Act provides, in relevant part, that:

The [Secretary of the Department of Homeland Security (Secretary)] is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other document or record heretofore issued . . . if it shall appear to the [Secretary'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 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.

Section 312(a) of the Act, 8 U.S.C. 1423(a), provides that:

No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate-

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: Provided, That the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable conditions shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

The corresponding regulation at 8 C.F.R. § 312.1 provides, in pertinent part, that:

(a) [E]xcept as otherwise provided in paragraph (b) of this section, no person shall be naturalized as a citizen of the United States upon his or her own application unless that person can demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language.

....

(c)(1) [T]he ability of an applicant to speak English shall be determined by a designated immigration officer from the applicant's answers to questions normally asked in the course of the examination.

(2) [A]n applicant's ability to read and write English must be tested in a manner prescribed by USCIS.

The regulation provides, in pertinent part, at 8 C.F.R. § 312.2, that:

(a) [N]o person shall be naturalized as a citizen of the United States upon his or her own application unless that person can demonstrate a knowledge and

(b)(6)

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understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

....

(c)(1) [T]he examination of an applicant's knowledge of the history and form of government of the United States must be given orally in English by a designated immigration officer. . . .

## II. ANALYSIS

As stated above, USCIS may cancel a Certificate of Naturalization if the document was obtained illegally or fraudulently. The Act and the regulations outline the process for cancellation of a Certificate of Naturalization. Here, the record reflects that the Director properly notified the Appellant of the intent to cancel the Certificate of Naturalization and afforded him an opportunity to respond as required under section 342 of the Act and the corresponding regulations.

### A. Procedural History

The Director determined, in a decision dated April 23, 2013, that evidence in the record established that the Appellant was not properly interviewed during his naturalization interview; that he did not take or pass required naturalization writing and reading tests during his naturalization interview; and that his naturalization was unlawfully obtained from Robert Schofield, a former USCIS employee.<sup>1</sup> Accordingly, the Director issued a decision cancelling the Appellant's Certificate of Naturalization.

On appeal, the Appellant asserted that he did not procure his Certificate of Naturalization unlawfully, and that he was a lawful permanent resident and eligible to apply for naturalization at the time of his naturalization interview. He asserted that he had no control over questions asked during his interview, or over how the naturalization interview was conducted, and he indicated that irregularities discovered in the adjudication of his application did not establish any wrongdoing on his part. The Appellant claimed that he did not know, or make payment to, Mr. Schofield in order to obtain his naturalization certificate, and that he was not named in Mr. Schofield's criminal court case documents. The Appellant asserted further that his citizenship must be revoked following a judicial denaturalization procedure under section 340 of the Act, 8 U.S.C. § 1451, before his Certificate of Naturalization could be cancelled.

We dismissed the Appellant's appeal on March 31, 2016. We found that, although the record contained a naturalization-related civics and history test with answers written in English, sworn statements made by the Appellant reflected that he admitted to immigration officers at the Newark Field Office and at [REDACTED] that he did not take writing and reading

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<sup>1</sup> In 2006, Mr. Schofield pled guilty to, among other crimes, unlawfully providing certificates of naturalization to individuals who were not entitled to U.S. citizenship. He was convicted in 2007. See *United States v. Schofield*, No. 06 CR 00427 (E.D. Va. Apr. 20, 2007).

tests during his naturalization interview, and that he did not take a written exam at his naturalization interview. In addition, the record reflected that Mr. Schofield stated during debriefings about the Appellant's case, that the Appellant did not understand English well enough to pass naturalization tests and that the Appellant was not properly interviewed during his naturalization interview. We found that regardless of the Appellant's culpability or lack thereof, the evidence of record established that his Certificate of Naturalization was obtained unlawfully from Mr. Schofield, without regard to his ineligibility for U.S. citizenship. Because the Appellant's Certificate of Naturalization was unlawfully issued and not provided to the Appellant after the completion of a proper naturalization process, the naturalization certificate was properly cancelled by the Director.

With regard to the Appellant's assertion that his citizenship must be revoked following a judicial denaturalization procedure under section 340 of the Act before his Certificate of Naturalization could be cancelled, we determined that section 342 of the Act authorizes USCIS to cancel any Certificate of Naturalization if it appears that the document or record was illegally or fraudulently obtained, and that the Act does not state that denaturalization proceedings must be instituted prior to the cancellation of a Certificate of Naturalization. We also noted that section 342 of the Act instructs that "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."

**B. Statement that the Appellant is a naturalized U.S. citizen**

We withdraw the statement contained in the first paragraph of our prior decision that the Appellant is a naturalized U.S. citizen.

**III. CONCLUSION**

In light of the above, the Appellant has not established that he obtained the Certificate of Naturalization legally.

The burden of proof in cancellation proceedings is on the government, and cancellation of a Certificate of Naturalization is authorized only "if it shall appear to the [Secretary's] satisfaction that such document ... was illegally or fraudulently obtained ...." We find that the Director met this burden of proof and that the Appellant's Certificate of Citizenship was properly cancelled.

We withdraw the statement in our prior decision that the Appellant is a naturalized U.S. citizen and affirm that decision.

**ORDER:** The appeal is dismissed.

Cite as *Matter of Y-Q-H-*, ID# 16372 (AAO Apr. 28, 2016)