



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

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

MATTER OF Y-Q-H-

DATE: MAR. 31, 2016

APPEAL OF NEWARK, NEW JERSEY FIELD OFFICE DECISION

MATTER: SECTION 342 CANCELLATION: ADMINISTRATIVE CANCELLATION OF  
CERTIFICATE, DOCUMENT, OR RECORD

The Appellant, a native of China, and a naturalized U.S. citizen, seeks review of the cancellation of his Certificate of Naturalization. *See* Immigration and Nationality Act (the Act) section 342, 8 U.S.C. § 1453. The Director, Newark, New Jersey Field Office, cancelled the Appellant's Certificate of Naturalization. The matter is now before us on appeal. The appeal will be dismissed.

In an October 21, 2015, decision, the Director determined 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 U.S. Citizenship and Immigration Services (USCIS) employee.<sup>1</sup> Accordingly, the Director issued a decision cancelling the Appellant's Certificate of Naturalization.

On appeal, the Appellant asserts 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 contends that he had no control over questions asked during his interview, or over how the naturalization interview was conducted, and he indicates that irregularities discovered in the adjudication of his application do not establish any wrongdoing on his part. The Appellant claims 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 publicly available criminal court case documents. He also asserts that there are favorable equities in his case, and he asks that USCIS exercise discretion and not cancel his Certificate of Naturalization. The Appellant states further that the Director erred in cancelling his naturalization certificate, in that his citizenship must be revoked following a judicial denaturalization procedure pursuant to section 340 of the Act, 8 U.S.C. § 1451, before his Certificate of Naturalization can be cancelled.

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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).

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

The Attorney General is authorized to cancel any certificate of . . . naturalization ... if it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, [the Attorney General] 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 regulation at 8 C.F.R. § 342 outlines the process for cancellation of a certificate of naturalization under the Act. The record reflects that the Director properly notified the Appellant of his intent to cancel the Appellant's Certificate of Naturalization, and afforded him an opportunity to respond as required by the Act and the regulations.

Upon review, the evidence in the record demonstrates that the Appellant's Certificate of Naturalization was unlawfully 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

(b)(6)

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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 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. . . .

The Appellant indicates on appeal that he was asked history and civics questions during his naturalization interview, and the record contains a naturalization-related civics and history test with answers written in English. Evidence in the record reflects, however, that the Appellant admitted during a Newark Field Office interview on August 11, 2015, that he did not take reading or written tests during his naturalization interview. A sworn statement signed by the Appellant on April 13, 2013, reflects that the Appellant also told immigration officers at [REDACTED] in [REDACTED] that he did not take a written exam at his naturalization interview. Furthermore, the record reflects that Mr. Schofield stated during debriefings about the Appellant's case in 2012, that the Appellant did not understand English well enough to pass naturalization tests. Mr. Schofield stated further that the Appellant was not properly interviewed during his naturalization interview.

The Appellant requests that this office favorably exercise discretion and not cancel his certificate of naturalization. However, "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). Here, the record reflects that the Appellant did not take or pass required USCIS examinations demonstrating his ability to read and write English, or demonstrating his knowledge of U.S. history and government, as required under section 312(a) of the Act. Regardless of the Appellant's culpability or lack thereof, the

evidence establishes that he did not fully comply with requirements for becoming a naturalized U.S. citizen, and that his Certificate of Naturalization was unlawfully procured by Mr. Schofield, without regard to the Appellant's ineligibility for U.S. citizenship. Because the Appellant's Certificate of Naturalization was unlawfully issued and not provided to him 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 can be cancelled, we note that USCIS is authorized to cancel any certificate of naturalization if it appears that the document or record was illegally or fraudulently obtained. *See* section 342 of the Act. The Act does not state that denaturalization proceedings must be instituted prior to the cancellation of a certificate of naturalization. Moreover, section 342 of the Act specifically 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."

The burden of proof in cancellation proceedings is on the government, and cancellation of a certificate of naturalization is authorized if it appears that the certificate was illegally or fraudulently obtained. Here, the government's burden of proof has been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of Y-Q-H-*, ID# 16372 (AAO Mar. 31, 2016)