UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

THE UNITED STATES OF AMERICA, Plaintiff, v. IAIN ROBERT LUMSDEN Defendant.	Case No. 1:26-cv-4040 **COMPLAINT TO REVOKE NATURALIZATION**

I. INTRODUCTION

The United States of America ("Plaintiff") brings this civil action under 8 U.S.C. § 1451(a) against Iain Robert Lumsden ("Defendant") to revoke his naturalized U.S. citizenship. Defendant fraudulently and unlawfully procured U.S. citizenship, because he had committed crimes prior to naturalizing that rendered him ineligible and because he concealed those crimes, for which he was charged and convicted after naturalizing, throughout the naturalization process. Specifically, after he became a U.S. citizen, Defendant was convicted in the United States District Court, Middle District of Florida, Tampa Division, for Transportation of Child Pornography, in violation of 18 U.S.C. § 2252(a)(1), 2252(b)(1), and 2. *See United States v. Iain Lumsden*, 8:20-CR-00361-VMC-AEP (D.C. M.D. Fla, December 7, 2021).

This complaint seeks revocation of Defendant's naturalization on three independent grounds. First, Defendant lacked the required good moral character to naturalize because, during the period during which he was required to show good moral character, he committed unlawful acts that adversely reflected on his moral character. Second, Defendant lacked the required good moral character to naturalize because, during the period during which he was required to show good moral character, he falsely testified under oath during his naturalization interview about his

prior criminal conduct. Third, to procure naturalization, Defendant willfully misrepresented and concealed facts that were material to determining his eligibility.

Based on Defendant's actions described further below and in the attached affidavit showing good cause, the United States brings this civil action under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Defendant to citizenship and to cancel his Certificate of Naturalization No. [redacted].

II. JURISDICTION AND VENUE

1. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1345 for this cause of action under 8 U.S.C. § 1451(a).

2. Venue is proper in this jurisdiction, because Defendant resides within the District of Colorado. *See* 8 U.S.C. § 1451(a).

III. PARTIES

3. Plaintiff is the United States of America.

4. Defendant is a naturalized U.S. citizen who resides in Colorado.

IV. FACTUAL BACKGROUND

5. The affidavit of Todd Bane, a Special Agent with DHS, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached as Exhibit A.

IMMIGRATION HISTORY

6. Defendant was admitted to the United States on August 17, 2004, on a K1 visa, as a fiancé of a United States citizen.

7. On July 21, 2005, Defendant adjusted status to that of a permanent resident, as the spouse of a United States citizen.

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NATURALIZATION PROCEEDINGS

Naturalization application

8. On or about April 26, 2017, Defendant filed with United States Citizenship and Immigration Services ("USCIS") a Form N-400, Application for Naturalization ("Naturalization Application").

9. A true and complete copy of the Naturalization Application, except for redactions of immaterial personally identifying information, is attached as Exhibit B.

10 On his Naturalization Application, Defendant answered "No" to Part 12, Question 23, which asked: "Have you **ever** committed, assisted in committing, or attempted to commit, a crime or offense for which you were **not** arrested?" (emphasis in original).

11. On his Naturalization Application, Defendant answered "No" to Part 12, Question 31, which asked: "Have you **ever** given any U.S. Government officials any information or documentation that was false, fraudulent or misleading?" (emphasis in original).

12. On or about April 23, 2017, Defendant signed his Naturalization Application under penalty of perjury, thereby certifying that his answers to the questions therein were true and correct.

13. Defendant submitted his Naturalization Application to USCIS on or about April 26, 2017, with the Denver Field Office of USCIS.

Naturalization Interview

14. On April 26, 2018, a USCIS officer interviewed Defendant on his Naturalization Application.

15. At the beginning of the naturalization interview, the USCIS officer placed Defendant under oath.

16. During the naturalization interview, the USCIS officer asked Defendant many of the same questions included in the written naturalization application.

17. During the naturalization interview, Defendant orally and under oath testified that he had *never* committed a crime or offense for which he was not arrested, consistent with his response to Part 12, Question 23.

18. During the naturalization interview, Defendant orally and under oath testified that he had *never* given false, fraudulent or misleading information to any U.S. government official, consistent with his response to Part 12, Question 31.

19. On April 26, 2018, the Defendant again signed his Naturalization Application, certifying under penalty of perjury that the contents of the application were true and correct.

20. Based on the information Defendant supplied in his Naturalization Application and in the sworn answers he gave during the naturalization interview, USCIS approved the naturalization application on May 11, 2018.

Oath of Allegiance

21. On May 30, 2018, based on Defendant's approved naturalization application and on the responses he provided that same day on Form N-445, Question 3, Notice of Naturalization Oath Ceremony, Defendant was administered the oath of allegiance to U.S. citizenship, and issued a Certificate of Naturalization No. [redacted].

22. A true and accurate copy of Defendant's Certificate of Naturalization, except for redactions of immaterial personally identifying information, is attached as Exhibit C.

DEFENDANT'S CRIMINAL HISTORY

23. Federal law enforcement agents conducted a forensic analysis of Defendant's electronic devices, where it was discovered that Defendant: (a) between 2015 and 2017, accessed questionable websites such as [redacted] and (b) in 2016, had the following internet search queries: [redacted]

24. On August 11, 2020, Defendant admitted to law enforcement that he first viewed child pornography five to ten years before August 11, 2020, and admitted to conducting searches for child pornography prior to naturalizing.

25. A true and accurate copy of the Homeland Security Investigations Report of Investigation and Forensic Findings, except for redactions of immaterial personally identifying information, is attached as Exhibit D (Report of Investigation 002).

26. On December 2, 2020, the Middle District of Florida issued an indictment for Defendant and a co-Defendant in case number 8:20-CR-000361-VMC-AEP. The indictment included five counts but only count three related to Defendant.

27. A true and accurate copy of Defendant's Indictment from case number 8:20-CR-000361-VMC-AEP, except for redactions of immaterial personally identifying information, is attached as Exhibit E.

28. The indictment, in the third count, charged Defendant with knowingly transporting and shipping "using any means and facility of interstate and foreign commerce, any

visual depiction, that is, the visual depiction in the computer file titled 27A82.jpg, and did aid and abet the same, when the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct, and the visual depiction was of such conduct" in violation of 18 U.S.C. § 2252(a)(1) and (b)(1) and 18 U.S.C. § 2.

29. On or about August 27, 2021, Defendant pled guilty to that one count of transportation of child pornography in violation of 18 U.S.C. § 2252(a)(1) and (b)(1) and 18 U.S.C. § 2.

30. A true and accurate transcript of Defendant's Change of Plea Hearing Transcript, except for redactions of immaterial personally identifying information, is attached as Exhibit F.

31. On August 30, 2021, the Middle District of Florida accepted the Defendant's plea of guilty.

32. A true and accurate copy of the Acceptance of Plea of Guilty and Adjudication of Guilt in Defendant's criminal case, except for redactions of immaterial personally identifying information, is attached as Exhibit G.

33. On December 7, 2021, the Defendant was sentenced to one hundred and eight (108) months of imprisonment and one hundred and twenty (120) months supervised release.

34. A true and accurate copy of the Sentencing Document and Judgement in a Criminal Case from Defendant's criminal case, except for redactions of immaterial personally identifying information, is attached as Exhibit H.

V. GOVERNING LAW

Congressionally Imposed Prerequisites to the Acquisition of Citizenship

35. No noncitizen has a right to naturalization "unless all statutory requirements are complied with." *United States v. Ginsberg*, 243 U.S. 472, 474-75 (1917). Indeed, the Supreme

Court has underscored that "[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship." *Fedorenko v. United States*, 449 U.S. 490, 506 (1981) ("An alien who seeks political rights as a member of this Nation can rightfully obtain them only upon the terms and conditions specified by Congress.") (quoting *Ginsberg*, 243 U.S. at 474).

36. Congress has mandated that an individual may not naturalize unless that person "during all periods referred to in this subsection has been and still is a person of good moral character . . . ." *See* 8 U.S.C. § 1427(a)(3). The required "statutory period" for good moral character begins five years before the date the applicant files the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a U.S. citizen. *Id.*; 8 C.F.R. § 316.10(a)(1).

37. Although Congress has not specifically defined what constitutes good moral character for naturalization purposes, the Immigration and Nationality Act lists certain classes of applicants who cannot be found to have the requisite good moral character. *See* 8 U.S.C. § 1101(f).

38. Congress has explicitly precluded individuals who give false testimony for the purpose of obtaining immigration benefits from establishing the good moral character necessary to naturalize. 8 U.S.C. § 1101(f)(6).

39. Further, Congress created a "catch-all" provision, which states, "The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character." 8 U.S.C. § 1101(f) (flush language).

40. Thus, an individual who commits an unlawful act adversely reflecting upon his or her moral character cannot meet the good moral character requirement unless he or she proves

that extenuating circumstances existed that lessen his or her culpability for the crime. *See* 8 C.F.R. § 316.10(b)(3)(iii); *see also* 8 U.S.C. § 1101(f).

41. "[A] conviction during the statutory period is not necessary for a finding that an applicant lacks good moral character. It is enough that the offense was 'committed' during that time." *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011) (discussing 8 U.S.C. § 1101(f)(3) and 8 C.F.R. § 316.10(b)(3)(iii)); *see also United States v. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (finding that unlawful acts during the statutory period would be considered even when the conviction came after naturalization); *United States v. Dang*, 488 F.3d 1135, 1140–41 (9th Cir. 2007) (same); *Giger v. United States Citizenship and Immigration Services*, 635 F. Supp. 3d 1136, 1142 (D. Colo. 2022) (holding, in part, that because "Plaintiff has admitted to using marijuana ten times within the five-year period preceding her Application" during the requisite good moral character time period, she was ineligible for naturalization). But where an individual has been convicted, he is collaterally estopped from contesting all issues necessarily decided in the criminal matter. *See id.* at 663 (stating that a defendant "may not . . . re-litigate issues decided in his criminal case" in a subsequent civil denaturalization action) (citing *United States v. Jean-Baptiste*, 395 F.3d 1190, 1192 (11th Cir. 2005), *cert. denied*, 546 U.S. 852 (2005)).

The Denaturalization Statute

42. Recognizing that there are situations in which an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or misrepresenting facts that are material to the decision on whether to grant his or her naturalization application, Congress enacted 8 U.S.C. § 1451.

43. Under 8 U.S.C. § 1451(a), a court must revoke an order of naturalization and cancel the individual's Certificate of Naturalization if his or her naturalization was either:

(i) illegally procured, or

(ii) procured by concealment of a material fact or by willful misrepresentation.

44. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship "illegally procured." *Fedorenko*, 449 U.S. at 506.

45. Naturalization was procured by concealment of a material fact or by willful misrepresentation where: (1) the naturalized citizen misrepresented or concealed some fact during the naturalization process; (2) the misrepresentation or concealment was willful; (3) the fact was material; and (4) the naturalized citizen procured citizenship as a result of the misrepresentation or concealment. *Kungys v. United States*, 485 U.S. 759, 767 (1988).

46. Where the government establishes that a defendant's citizenship was procured illegally or by willful misrepresentation or concealment of a material fact, "district courts lack equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

V. CAUSES OF ACTION

COUNT ONE

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (Unlawful Acts Reflecting Adversely on Moral Character)

47. Plaintiff re-alleges and incorporates by reference the factual and legal allegations contained in Sections I through IV of this complaint.

48. As outlined above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character during his "statutory period," which runs from April 26, 2012, until May 30, 2018. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

49. Defendant could not establish the requisite good moral character for naturalization because he committed unlawful acts during the statutory period that reflected adversely upon his moral character, per the catch-all provision in 8 U.S.C. § 1101(f), and there were no extenuating circumstances that would lessen his guilt. *See* 8 C.F.R. § 316.10(b)(3)(iii); see also 8 U.S.C. § 1101(f).

50. Specifically, after Defendant's naturalization, federal law enforcement agents conducted a forensic analysis of Defendant's electronic devices, where it was discovered that the Defendant: (a) between 2015 and 2017, accessed questionable websites such as [redacted] and (b) in 2016, had the following internet search queries: [redacted]

51. Additionally, on August 11, 2020, Defendant admitted to law enforcement that he first viewed child pornography five to ten years before that date, and admitted to conducting searches for child pornography prior to naturalizing.

52. A true and accurate copy of the Homeland Security Investigations Report of Investigation and Forensic Findings, except for redactions of immaterial personally identifying information, is attached as Exhibit H (Report of Investigation 002).

53. Defendant's unlawful acts reflected adversely on his moral character.

54. Defendant's conduct occurred in the time between April 26, 2012, until May 30, 2018, which is within his statutory period.

55. Defendant cannot establish extenuating circumstances with regard to his unlawful activity that render his conduct less reprehensible that it otherwise would be or tend to palliate or lessen his guilt. He therefore cannot avoid the regulatory bar on establishing good moral character found at 8 C.F.R. § 316.10(b)(3)(iii).

56. Because Defendant committed unlawful acts that adversely reflected on his moral character during the statutory period and he cannot demonstrate extenuating circumstances, he was barred under 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10(b)(3)(iii) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

COUNT TWO

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (False Testimony)

57. Plaintiff re-alleges and incorporates by reference the factual and legal allegations contained in Sections I through IV of this Complaint.

58. As outlined above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character during his "statutory period," which runs from April 26, 2012, five years before he filed his Naturalization Application, until May 30, 2018, when he naturalized. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

59. During his naturalization interview with USCIS on April 26, 2018, which was within the statutory period, Defendant gave false testimony to secure an immigration benefit.

60. During his April 26, 2018 interview, and after being placed under oath by the interviewing officer, Defendant falsely testified orally to USCIS that he had never committed a

crime or offense for which he was not arrested, consistent with his response to Part 12, Question 23, despite having accessed questionable websites; conducted questionable internet search queries; and on August 11, 2020, admitting to law enforcement that he first viewed child pornography five to ten years before that date and admitted to conducting searches for child pornography prior to naturalizing.

61. Also during his 2018 interview, Defendant falsely testified that he had never given false, fraudulent or misleading information to any U.S. government official, consistent with his response to Part 12, Question 31, despite having lied to USCIS in his Naturalization Application and during his naturalization interview by representing that he had *never* committed a crime or offense for which he was not arrested, when he had accessed questionable websites, later admitted to law enforcement that he first viewed child pornography five to ten years before August 11, 2020, and later admitted that he conducted searches for child pornography prior to naturalizing.

62. Because, during the statutory period, Defendant provided false testimony under oath for the purpose of obtaining naturalization—an enumerated statutory bar—he was barred under 8 U.S.C. § 1101(f)(6) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

63. Because Defendant was ineligible to naturalize, he illegally procured his naturalization.

64. Because Defendant illegally procured his naturalization, this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

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COUNT THREE

PROCUREMENT OF NATURALIZATION BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

65. Plaintiff re-alleges and incorporates by reference the factual and legal allegations contained in Sections I through IV of this Complaint.

66. Under 8 U.S.C. § 1451(a), this Court must revoke Defendant's naturalization and cancel his Certificate of Naturalization because he procured his naturalization by concealment of a material fact and by willful misrepresentation.

67. As set forth above, throughout his naturalization process, including in his Naturalization Application and during his naturalization interview, Defendant concealed his criminal actions and willfully misrepresented that (a) he had never committed a crime or offense for which he had not been arrested, (b) he had never given any U.S. Government officials any information or documentation that was false, fraudulent, or misleading, and (c) he had never lied to any U.S. Government official to gain immigration benefits.

68. Defendant knew these representations were false and misleading.

69. Because Defendant knew these representations were false and misleading, he therefore provided his misrepresentations willfully.

70. Defendant's misrepresentations were material to his naturalization because the disclosure of his fraud and misrepresentations to obtain an immigration benefit would have had a natural tendency to influence USCIS's decision whether to approve Defendant's naturalization application, because such information directly related to statutory and regulatory eligibility criteria that USCIS is required to consider when deciding whether to grant or deny a naturalization application.

71. Defendant procured his naturalization because of his misrepresentations and concealment.

72. Had Defendant disclosed the truth about his criminal conduct, he would have disclosed his ineligibility for naturalization, and USCIS would not have approved his application or administered the oath of allegiance.

73. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts, and this Court therefore must revoke his naturalization pursuant to 8 U.S.C. § 1451(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, requests:

A. Judgment that Defendant illegally procured his naturalization;

B. Judgment that Defendant procured his naturalization by willful misrepresentation and concealment of material facts;

C. Judgment revoking and setting aside Defendant's naturalization and canceling Certificate of Naturalization No. [redacted], effective as of the original date of the order and certificate, May 30, 2018;

D. Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages in connection with his May 30, 2018, naturalization;

E. Judgment requiring Defendant to surrender and deliver, within ten days of the entry of judgment against him, his Certificate of Naturalization and any copies thereof in his possession or control (and to make good faith efforts to recover and immediately surrender any copies thereof that he knows are in the possession or control of others) to the Acting Attorney General or to his representative, including undersigned counsel;

F. Judgment requiring Defendant to surrender and deliver, within ten days of the entry of judgment against him, any other indicia of U.S. citizenship whether valid or expired—including, but not limited to, U.S. passports (and passport cards, if applicable), as well as any Enhanced Driver's Licenses—and any copies thereof in his possession or control (and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others), whether valid or expired, to the Acting Attorney General or to his representative, including undersigned counsel; and

G. Judgment granting the United States such other relief as may be lawful and proper in this case.

Dated: August 31, 2026

Respectfully submitted,

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