IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAVIER MARRERO-PANDO,

Defendant.

CIVIL ACTION NO. 3:26-cv-00104

COMPLAINT TO REVOKE NATURALIZATION

The United States of America brings this civil action against Javier Marrero-Pando ("Defendant") to revoke his naturalized United States citizenship. This action under 8 U.S.C. § 1451(a) is based on Defendant's criminal conduct prior to naturalizing, for which he was charged and convicted after naturalizing. Specifically, before he became a citizen of the United States, Defendant engaged in criminal activity that he concealed during the naturalization process that disqualified him from United States citizenship.

When Defendant filed his naturalization application in October 2019 and was interviewed in October 2020, he stated that he had never committed a crime for which he had not been arrested. On May 2, 2022, however, he pleaded guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) – and ultimately was convicted of – Aggravated Sodomy, which he committed in May 2020, in violation of Ga. Code Ann. § 16-6-2(a)(2) (West 2020). In light of Defendant's crime, which he misrepresented and concealed during his naturalization process, he was ineligible for naturalization and, thus, procured his citizenship unlawfully. Additionally, because Defendant withheld his prior crime during his naturalization process, he also procured his citizenship by concealment of a material fact or by willful misrepresentation. Accordingly, as

shown below, Defendant unlawfully naturalized, and this Court must order the denaturalization of Defendant.

I. PARTIES, JURISDICTION, AND VENUE

1. This is an action filed under 8 U.S.C. § 1451(a) to revoke and set aside the decision admitting Defendant to United States citizenship and to cancel Defendant's Certificate of Naturalization No [redacted]

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 for this cause of action under 8 U.S.C. § 1451(a).

3. Venue is proper in this District under 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391, because Defendant previously resided in this District prior to his incarceration.

4. Plaintiff is the United States of America, suing on behalf of itself.

5. Defendant is a native of Cuba and obtained his United States citizenship through naturalization.

6. Defendant's last known address of residence is in Athens, Georgia.

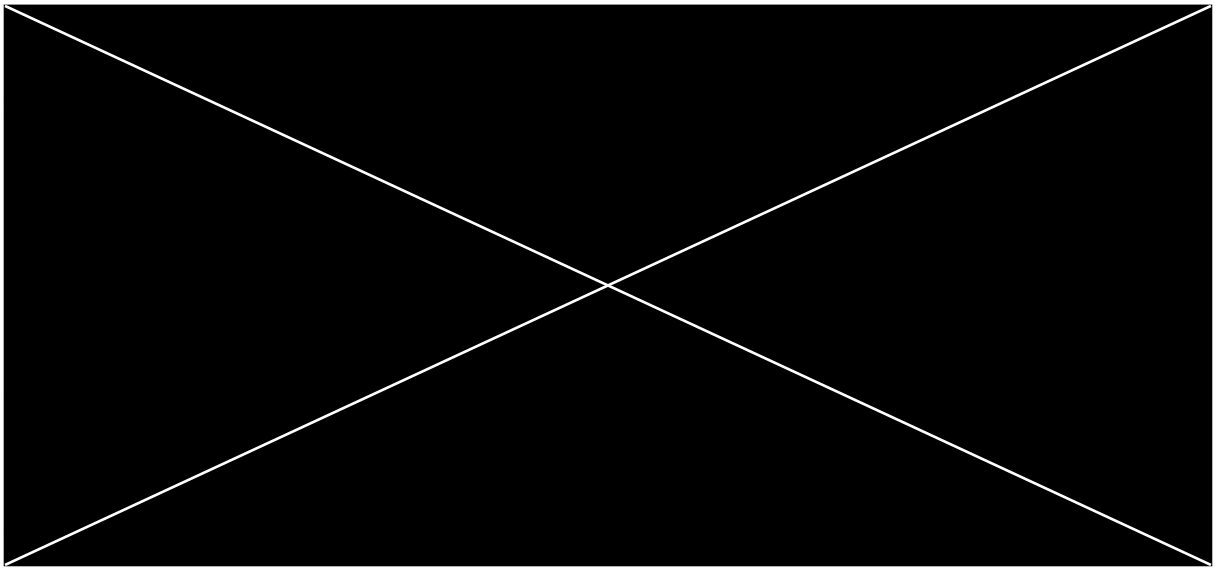
II. FACTUAL BACKGROUND

7. The affidavit of Ronald Dorman, a Deportation Officer with U.S. Immigration and Customs Enforcement, an agency within the U.S. Department of Homeland Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached hereto as Exhibit A.

A. **Defendant's Criminal Conduct and Felony Conviction**

8. On May ??, 2020, [Victim's mother] reported to the Madison County Sheriff's Office that she believed her 21-year-old special needs son, [Victim],[1] was sexually assaulted in the woods behind their home.

9. [Victim] reported to law enforcement officers and a sexual assault nurse that he was approached by a Hispanic male subject, Defendant, who forced him into the woods.



15. The collected DNA was placed in a sexual assault kit and sent to the Georgia Bureau of Investigation crime lab to be analyzed.

16. During the investigation, law enforcement officers developed Defendant as a subject.

17. On August 6, 2020, Defendant voluntarily met with officers.

18 Defendant was asked by officers if he ever met an individual matching [Victim]'s description on [REDACTED] Road.

[1] As the instant Complaint involves accusations of sexual assault, Plaintiff, out of an abundance of caution, redact's Victim's name for privacy purposes.

19. Defendant denied having met an individual matching [Victim]'s description.

20. Defendant specifically denied getting out of his car and meeting anyone in the woods.

21. Defendant denied [Victim]'s accusations of sexual assault against Defendant.

22. On April 22, 2021, Defendant voluntarily submitted a Deoxyribonucleic acid ("DNA") sample to law enforcement officers, who sent the sample to Georgia Bureau of Investigation Crime Lab to be compared to the samples that were taken from [Victim] on the day of the sexual assault.

23. On or about July 9, 2021, the Georgia Bureau of Investigation's Division of Forensic Sciences confirmed that the DNA sample taken from Defendant matched the DNA sample taken from [Victim]'s rectum.

24. On or about October 20, 2021, a grand jury from the Superior Court of Georgia in Madison County returned an indictment charging Defendant with, among other charges, one count of Aggravated Sodomy, in violation of Ga. Code Ann. § 16-6-2(a)(2). *See* Indictment, *State of Georgia v. Javier Marrero-Pando*, No. 21MR427-M (Ga. Super. Ct.) (Attached hereto as Exhibit B).

25. On or about May 2, 2022, Defendant and his attorney signed a Petition to Plead Guilty via an *Alford* plea agreement to Aggravated Sodomy, in violation of Ga. Code Ann. § 16-6-2(a)(2). *See* Petition to Plead Guilty, *State of Georgia v. Javier Marrero-Pando*, No. 21MR427-M (Ga. Super. Ct.) (Attached hereto as Exhibit C); *see also* Defendant's Change of Plea, *State of Georgia v. Javier Marrero-Pando*, No. 21MR427-M (Ga. Super. Ct.) (Attached hereto as Exhibit D).

26. On or about June 10, 2022, the Superior Court of Madison County adjudged Defendant guilty of one count of Aggravated Sodomy under Ga. Code Ann. § 16-6-2(a)(2), and sentenced him to life in prison, with all but 15 years suspended, and the remainder to be served on probation. *See* Final Disposition: FELONY with Probation, *State of Georgia v. Javier Marrero-Pando*, No. 21MR427-M (Ga. Super. Ct.) (Attached hereto as Exhibit E).

27. The plea agreement contains Defendant's admission to the facts alleged in preceding paragraphs 8-13. *See* Exhibit B, Exhibit C, Exhibit D.

28. The facts alleged in preceding paragraphs 8-13 summarize Defendant's participation in the crime of Aggravated Sodomy under Ga. Code Ann. § 16-6-2(a)(2).

B. Defendant's Naturalization Application and Oath Ceremony

29. On or about October 31, 2019, Defendant applied to naturalize and become a United States citizen by filing a Form N-400, Application for Naturalization ("Naturalization Application") with U.S. Citizenship and Immigration Services ("USCIS").

30. A true and complete copy of Defendant's naturalization application, redacted only as to personally identifying information immaterial to this action, is attached as Exhibit F.

31. On his Naturalization Application, Defendant checked "No" in response to Part 12, Question 14.E, which asked: "Were you **EVER** involved in any way with any of the following....[f]orcing, or trying to force, someone to have any kind of sexual contact or relations?"

32. On his Naturalization Application, Defendant checked "No" in response to Part 12, Question 22, which asked: "Have you **EVER** committed, assisted in committing, or attempted to commit, a crime or offense for which you were NOT arrested?"

33. On or about October 22, 2019, Defendant signed the Naturalization Application under penalty of perjury, thereby certifying that his answers to the questions therein were true and correct.

34. On October 6, 2020, an Immigration Services Officer ("ISO") with USCIS, orally interviewed Defendant regarding his Naturalization Application to determine his eligibility for naturalization.

35. At the beginning of the interview, the ISO placed Defendant under oath.

36. During the interview, the ISO asked Defendant, consistent with Part 12, Question 14.F of Defendant's Naturalization Application, whether he had ever been involved with forcing, or trying to force, someone to have any kind of sexual contact or relations.

37. Defendant verbally confirmed his written response to Part 12, Question 14.E of his Naturalization Application, testifying under oath that he had never forced or tried to force someone to have any kind of sexual contact or relations.

38. Defendant's testimony regarding his forcing or trying to force someone to have any kind of sexual contact or relations was false.

39. During the interview, the ISO asked Defendant, consistent with Part 12, Question 22 of Defendant's Naturalization Application, whether he had ever committed, assisted in committing, or attempted to commit, a crime or offense for which he was not arrested.

40. Defendant verbally confirmed his written response to Part 12, Question 22 of his Naturalization Application, testifying under oath that he had never committed, assisted in committing, or attempted to commit, a crime or offense for which he was not arrested.

41. Defendant's testimony regarding his commission of a crime or offense was false.

42. During his naturalization process, Defendant did not disclose his involvement in the crime of Aggravated Sodomy.

43. Defendant's answer of "No" to Part 12, Question 14.E , and Part 12, Question 22 of his N-400 was false or misleading because he had committed Aggravated Sodomy on May 22, 2020, to which he later admitted and for which he was later convicted.

44. In fact, at no point during the naturalization process did Defendant disclose that he had committed Aggravated Sodomy.

45. At the end of the interview, Defendant again signed the Naturalization Application under penalty of perjury in the presence of the ISO and swore that the contents of the application were true and correct to the best of his knowledge.

46. Based upon the information Defendant supplied on his Naturalization Application and on the sworn answers he gave during his October 6, 2020, naturalization interview, USCIS approved the application.

47. On October 23, 2020, Defendant took the Oath of Allegiance to become a United States citizen. He was issued Certificate of Naturalization No. [redacted]

48. A true and complete copy of Defendant's Certificate of Naturalization, redacted only as to personally identifying information immaterial to this action, is attached as Exhibit G.

III. GOVERNING LAW

A. Congressionally Imposed Prerequisites to the Acquisition of United States Citizenship.

49. No individual 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); *see also id.* (an individual "who seeks political rights as a member of the Nation can rightfully obtain them only upon the terms and conditions specified by Congress." (quoting *Ginsberg*, 243 U.S. at 474)).

50. Among other requirements, 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 for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a United States citizen. *See id.*; 8 C.F.R. § 316.10(a).

51. 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. 8 U.S.C. § 1101(f).

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

53. Further, Congress created a "catch-all" provision, which states that "[t]he 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).

54. Individuals who commit unlawful acts adversely reflecting upon their moral character cannot meet the good moral character requirement, unless they prove that extenuating circumstances existed. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f) (flush language).

55. Thus, an individual unlawfully procured naturalization if he or she committed unlawful acts during the statutory period, even if he or she was convicted of those crimes after

being granted citizenship. *See United States v. Jean-Baptiste*, 395 F.3d 1190, 1193-94 (11th Cir. 2005), *cert. denied*, 546 U.S. 852 (2005).

B. The Denaturalization Statute

56. Recognizing that there are situations where 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.

57. Under 8 U.S.C. § 1451(a), this 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.

58. 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.

59. 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. *See Kungys v. United States*, 485 U.S. 759, 767 (1988).

60. Where the government establishes that the defendant's citizenship was procured illegally or by willful misrepresentation or concealment of material facts, "district courts lack

equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

IV. CAUSES OF ACTION

COUNT I

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (UNLAWFUL ACTS)

61. The United States re-alleges and incorporates by reference the factual and legal allegations contained in Sections II through III of this Complaint.

62. As an applicant for naturalization pursuant to 8 U.S.C. § 1427(a), Defendant was required to prove that he was a person of good moral character from October 31, 2014, five years before he filed his naturalization application, until October 23, 2020, the date on which he was admitted to United States citizenship (the "statutory period").

63. An applicant shall be found to lack good moral character if, during the statutory period, he or she commits unlawful acts that adversely reflects on his or her moral character. *See* 8 U.S.C. §1101(f); 8 C.F.R. §316.10(b)(3)(iii); *see also United States v. Jean-Baptiste*, 395 F.3d 1190, 1194 (11th Cir. 2005) (holding that a naturalized citizen, who committed an offense during the statutory period prior to taking the oath of allegiance but who was not indicted, arrested and convicted until after naturalization, was subject to denaturalization for lack of good moral character).

64. Defendant could not establish the requisite good moral character for naturalization because he committed unlawful acts reflecting adversely on his moral character by committing Aggravated Sodomy of [Victim] during the statutory period. *See* 8 U.S.C. § 1101(f).

65. Specifically, as set forth above at paragraphs 8-13, on or about May 22, 2020, Defendant placed his penis in the mouth of [Victim] with force and against [Victim]'s will.

66. On or about May 2, 2022, Defendant appeared before the Superior Court of Madison County, State of Georgia and pleaded guilty under *Alford* to committing Aggravated Sodomy in violation of Ga. Code Ann. § 16-6-2(a)(2). The Aggravated Sodomy statute requires, in relevant part, any sexual act made with force and against the will involving the sex organs of one person and the mouth or anus of another person.

67. On or about May 2, 2022, in the Superior Court of Georgia in Madison County, Defendant was adjudged guilty of Aggravated Sodomy.

68. On or about June 10, 2022, Defendant was sentenced to life in prison, with all but 15 years suspended, and the remainder of his sentence to be served on probation.

69 Defendant committed the crime of Aggravated Sodomy within the statutory period as it was committed on May 22, 2020.

70. The crime of Aggravated Sodomy under Georgia Code Ann. § 16-6-2(a)(2), *e.g.*, performing any sexual act involving the sex organs of one person and the mouth or anus of another with force and against the will of the other person, is an unlawful act that adversely reflects on an individual's moral character, as measured against the standards of the average citizen in the community of residence.

71. The crime of Aggravated Sodomy under Ga. Code Ann. § 16-6-2(a)(2) also is a felony in Georgia, and is an unlawful act that adversely reflected on Defendant's moral character as contemplated by 8 U.S.C. §1101(f) and 8 C.F.R. § 316.10(b)(3)(iii);

72. Defendant cannot establish extenuating circumstances with regard to the Aggravated Sodomy conduct underlying his guilty plea that could have mitigated the effect of Defendant's actions on his ability to establish good moral character.

73. Because Defendant was not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

74. Because Defendant was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

COUNT II

ILLEGAL PROCUREMENT OF NATURALIZATION
LACK OF GOOD MORAL CHARACTER
(FALSE TESTIMONY)

75. The United States re-alleges and incorporates by reference the factual and legal allegations contained in Sections II through III of this Complaint

76. To be eligible for naturalization, Defendant was required to establish that he was a person of good moral character from October 31, 2014, until the date he became a United States citizen, on October 23, 2020.

77. Defendant was statutorily precluded from showing that he was a person of good moral character because he gave false testimony, under oath, during the statutory period, for the purpose of obtaining an immigration benefit, specifically naturalization. 8 U.S.C. § 1101(f)(6); 8 C.F.R. § 316.10(b)(2)(vi).

78. During the statutory period, Defendant provided false testimony for the purpose of obtaining an immigration benefit when he swore, under oath, during his October 6, 2020, naturalization interview, that he had never committed a crime or offense for which he had not been arrested.

79. During the statutory period, Defendant provided false testimony for the purpose of obtaining naturalization when he swore, under oath, during his October 6, 2020, naturalization interview before a USCIS officer, that he had never been involved in any way with forcing, or trying to force, someone to have any kind of sexual contact or relations.

80. During the statutory period, Defendant provided false testimony for the purpose of obtaining naturalization when he swore, under oath, during his October 6, 2020, naturalization interview before a USCIS officer, that he had never committed, assisted in committing, or attempted to commit, a crime or offense for which he was not arrested.

81. Defendant's testimony on each of the foregoing issues was knowingly false and for the purpose of obtaining an immigration benefit, namely naturalization. Because Defendant provided false testimony under oath for the purpose of obtaining his naturalization, 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 United States citizen.

82. Because Defendant was not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

83. Because he was ineligible to naturalize, Defendant illegally procured his citizenship, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

COUNT III

PROCUREMENT OF UNITED STATES CITIZENSHIP BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

84. The United States re-alleges and incorporates by reference the factual and legal allegations contained in Sections II through III of this Complaint.

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

86. As set forth above, during his naturalization interview on October 6, 2020, Defendant willfully misrepresented and concealed his commission of Aggravated Sodomy on

May 22, 2020, in violation of Ga. Code Ann. § 16-6-2(a)(2), for which he later pleaded guilty in the Superior Court of Madison County, State of Georgia.

87. Specifically, Defendant represented during his naturalization process that he had never been involved in any way with forcing or trying to force someone to have any kind of sexual contact or sexual relations, and he had never knowingly committed any crime or offense for which he had not been arrested, despite knowing that such representations were false and misleading.

88. Defendant also represented during his naturalization process that he had never given false or misleading information to any U.S. Government official while applying for any immigration benefit, despite knowing that his representation was false and misleading.

89. Defendant knew during his naturalization process that the representations that he had never been involved in any way with forcing or trying to force someone to have any kind of sexual contact or sexual relations, and that he had never knowingly committed or attempted to commit any crime or offense for which he had not been arrested were false because, on May 22, 2020, he committed Aggravated Sodomy, as he later admitted to in his plea agreement and for which he was later convicted.

90. Defendant knew the representation that he had never given false or misleading information to any U.S. Government official while applying for any immigration benefit was false because he had signed his naturalization application and submitted it to USCIS on or about October 31, 2019, after stating on his naturalization application that he had never committed any crime for which he was not arrested, even though on or about May 22, 2020, he committed aggravated sodomy against [Victim], as he later admitted to in his plea agreement and for which he was later convicted.

91. Defendant's misrepresentations were material to his naturalization because the disclosure of his criminal conduct would have had a natural tendency to influence USCIS's decision whether to approve Defendant's Naturalization Application as they related to statutory eligibility criteria for such benefit.

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

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

PRAYER FOR RELIEF

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

1. A declaration that Defendant illegally procured his citizenship;

2. A declaration that Defendant procured his citizenship by concealment and willful misrepresentation of material facts;

3. 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, October 23, 2020;

4. Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages related to United States citizenship that he obtained as a result of his October 23, 2020, naturalization;

5. 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 – and to make good faith efforts to recover and immediately surrender any copies thereof that he knows are in the possession of others – to the Attorney General or his representative, including undersigned counsel;

6. Judgment requiring Defendant to surrender and deliver, within ten days of the entry of judgment against him, any other indicia of United States citizenship (including, but not limited to, United States passports, passport cards, and Enhanced Drivers Licenses, whether valid or expired), and any copies thereof in his possession – and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession of others – to the Attorney General or his representative, including undersigned counsel; and

7. 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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Dated: August 31, 2026