IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO. 0:26-cv-61628

UNITED STATES OF AMERICA, Plaintiff, vs. FEDERICO MICHEL FERMIN, Defendant.	)	**COMPLAINT TO REVOKE NATURALIZATION**

I. PRELIMINARY STATEMENT

The United States of America brings this civil action against Defendant Federico Michel Fermin ("Defendant") to revoke his naturalized U.S. 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, from at least September 2004 until August 2005, Defendant conspired to distribute more than $1.7 million in prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371. As part of that conspiracy, Defendant created fraudulent medicine labels and fraudulent documents that he submitted to the U.S. Food and Drug Administration ("FDA"). Yet, when Defendant filed his naturalization application in August 2008 and was interviewed in January 2009, he stated that he had never committed a crime for which he had not been arrested. In April 2010, after Defendant naturalized, he was indicted for the foregoing crime, and on May 12, 2011, he was convicted, by a jury, of conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371. In light of Defendant's fraudulent scheme, for which he was convicted and that he misrepresented and concealed throughout his naturalization proceedings, he was

ineligible for naturalization and thus procured his citizenship unlawfully. Accordingly, as shown below, Defendant unlawfully naturalized and this Court must order the denaturalization of Defendant.

II. 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 U.S. citizenship and to cancel Defendant's Certificate of Naturalization No. [redacted]

2. This Court has subject matter jurisdiction pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1345.

3. Venue is proper in this district under 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391, because Defendant can be found in and resides in this District.

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

5. Defendant was born in the Dominican Republic and is a naturalized U.S. citizen.

6. Defendant's last known address of residence is in [redacted].

III. FACTUAL BACKGROUND

7. The affidavit of Ward Nihiser, a Special Agent 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 as Exhibit A.

A. Defendant's Conspiracy Scheme & Federal Conviction

8. From September 2004 until August 2005, Defendant and others conspired to commit an offense against the United States, that is, to knowingly engage in the

wholesale distribution in interstate commerce of prescription drugs subject to 21 U.S.C. § 353(b) in the state of Florida without being licensed by the state of Florida, in violation of 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A).

9. As part of his criminal conspiracy to engage in the unlicensed wholesale distribution in interstate commerce of prescription drugs, Defendant altered drug packaging and caused it to be altered so that the prescription drugs that were distributed to pharmacies as part of Defendant's criminal conspiracy would appear to have been purchased from persons who were licensed to distribute them.

10. As a result of Defendant's criminal conspiracy to engage in the unlicensed wholesale distribution in interstate commerce of prescription drugs, pharmacies paid a company operated by the conspiracy approximately $1,734,280.

11. The FDA subpoenaed the records of a company operated by Defendant's criminal conspiracy to ascertain its suppliers and customers.

12. That company provided the FDA with falsified and fraudulent documents.

13. On April 27, 2010, Defendant was charged in a Superseding Indictment with several crimes relating to his criminal conspiracy ("Superseding Indictment").

14. A true and complete copy of the Superseding Indictment in No. 1:10-cr-20171-King (S.D. Fla), as filed with the U.S. District Court for the Southern District of Florida, is attached hereto as Exhibit B.

15. Count 5 of the Superseding Indictment charged Defendant with conspiring to engage in the wholesale distribution in interstate commerce of prescription drugs subject to 21 U.S.C. § 353(b) in the state of Florida without being licensed by the state of

Florida, in violation of 18 U.S.C. § 371, 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A).

16. On May 12, 2011, a jury sitting in the U.S. District Court for the Southern District of Florida found Defendant guilty of Count Five of the Superseding Indictment, which charged Defendant and others with conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371.

17. On October 14, 2011, the U.S. District Court for the Southern District of Florida entered a Judgment in a Criminal Case recording the jury's verdict finding Defendant guilty of Count Five of the Superseding Indictment, which charged Defendant with conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371 ("Judgment").

18. On October 14, 2011, Defendant was sentenced to 48 months in prison and two years of supervised release.

19. A true and complete copy of the Judgment from the U.S. District Court for the Southern District of Florida is attached hereto as Exhibit C.

20. The Judgment notes that Defendant's offense of conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371, ended in August 2005. *See* Exhibit C at 1.

B. Defendant's Naturalization Application and Oath Ceremony

21. On or about April 24, 2008, Defendant filed a Form N-400, Application for Naturalization ("Naturalization Application") with U.S. Citizenship and Immigration Services ("USCIS").

22. A true and complete copy of Defendant's Naturalization Application is attached hereto as Exhibit D.

23. In his Naturalization Application, Defendant checked "No" in response to part 10, question 15, which asked: "Have you **ever** committed a crime or offense for which you were **not** arrested?" *Id*. at 8 (emphasis in original).

24. On or about April 4, 2008, Defendant signed the Naturalization Application under penalty of perjury, thereby certifying that his answers to the questions therein were true and correct.

25. On January 9, 2009, Cassandra McCrary, an officer with USCIS, orally interviewed Defendant regarding his Naturalization Application to determine his eligibility for naturalization ("Naturalization Interview").

26. At the beginning of the Naturalization Interview, Officer McCrary placed Defendant under oath.

27. During the Naturalization Interview, Officer McCrary annotated Defendant's Naturalization Application with a red pen to indicate that she had asked specific questions and that Defendant had answered those questions.

28. During the Naturalization Interview, Officer McCrary asked Defendant, consistent with part 10, question 15 of Defendant's Naturalization Application, whether he had ever committed a crime or offense for which he was not arrested.

29. At his Naturalization Interview, Defendant confirmed his written response, stating orally and under oath that he had never committed a crime or offense for which he was not arrested.

30. Defendant's testimony at the Naturalization Interview regarding his commission of a crime or offense was false.

31. At his Naturalization Interview, Defendant denied that he had committed a crime or offense for which he was not arrested, when, in fact, he had conspired to commit an offense against the United States, that is, to knowingly engage in the wholesale distribution in interstate commerce of prescription drugs subject to 21 U.S.C. § 353(b) in the state of Florida without being licensed by the state of Florida, in violation of 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A).

32. At no point during the naturalization process did Defendant disclose to USCIS his criminal conduct of conspiring to distribute prescription drugs wholesale without a license.

33. At the end of the Naturalization Interview, Defendant again signed the Naturalization Application in the presence of Officer McCrary and swore that the contents of his application, including eleven numbered changes, were true and correct to the best of his knowledge.

34. Based upon the information supplied by Defendant in his Naturalization Application and on the sworn answers he gave during his Naturalization Interview, USCIS approved the application.

35. On January 27, 2009, Defendant took the Oath of Allegiance to become a U.S. citizen.

36. On January 27, 2009, Defendant was issued Certificate of Naturalization No [redacted]

37. A true and complete copy of Defendant's Certificate of Naturalization is attached hereto as Exhibit E.

IV. GOVERNING LAW

A. Congressionally imposed prerequisites to the acquisition of citizenship.

38. No alien 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 alien 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)).

39. 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 the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a U.S. citizen. *Id*.

40. 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).

41. 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).

42. Further, Congress created a "catch-all" provision, which states, "[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).

43. Thus, 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 that would ameliorate or palliate their guilt. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

44. "[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. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (quoting *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011)).

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

46. 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 naturalization application, Congress enacted 8 U.S.C. § 1451.

47. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization and cancel the individual's Certificate of Naturalization if the naturalization was *either*:

i. illegally procured, *or*

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

48. 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.

49. 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).

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

V. CAUSES OF ACTION
COUNT I

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

51. The United States re-alleges and incorporates by reference the foregoing paragraphs.

52. As noted above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character from April 24, 2003 until the day he became a U.S. citizen on January 27, 2009.

53. Defendant could not establish the requisite good moral character for naturalization because he committed unlawful acts during the statutory period that reflected adversely on his moral character and there were no extenuating circumstances that would palliate or ameliorate his guilt. 8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii).

54. Specifically, as set forth above, from September 2004 until August 2005, Defendant conspired with others to commit an offense against the United States, that is, to knowingly engage in the wholesale distribution in interstate commerce of prescription drugs subject to 21 U.S.C. § 353(b) in the state of Florida without being licensed by the state of Florida, in violation of 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A).

55. In connection with that crime, on May 12, 2011, Defendant was convicted in the U.S. District Court for the Southern District of Florida of one count of conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371.

56. Defendant committed his crime and the underlying conspiracy during the statutory period.

57. Defendant cannot establish extenuating circumstances that would palliate or ameliorate the conspiratorial conduct underlying his guilty verdict pursuant to 18 U.S.C. § 371.

58. Because Defendant cannot establish extenuating circumstances, he therefore cannot avoid the regulatory bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii).

59. Defendant's criminal conduct precluded him from establishing good moral character, rendering him ineligible for naturalization at the time he took the oath of allegiance. *See* 8 C.F.R. § 316.10(b)(3)(iii).

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

61. Because Defendant illegally procured his naturalization, 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)

62. The United States re-alleges and incorporates by reference the foregoing paragraphs.

63. As discussed above, to be eligible for naturalization, Defendant was required to establish that he was a person of good moral character from April 24, 2003, until the date he became a U.S. citizen, on January 27, 2009.

64. Defendant was statutorily precluded from showing that he was a person of good moral character because he gave false testimony, orally and 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).

65. As set forth above, during the statutory period, Defendant provided false testimony for the purpose of obtaining an immigration benefit when he testified orally and under oath during his Naturalization Interview that his answer to part 10, question 15 was true to the best of his knowledge and that he had never committed a crime or offense for which he had not been arrested.

66. Because Defendant provided false testimony orally and 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 U.S. citizen.

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

68. Because he was ineligible to naturalize, Defendant illegally procured his citizenship.

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

COUNT III

PROCUREMENT OF U.S. CITIZENSHIP BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

70. The United States re-alleges and incorporates by reference the foregoing paragraphs.

71. 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.

72. As set forth above, throughout the naturalization process, Defendant willfully misrepresented and concealed his involvement in an ongoing criminal conspiracy, for which he was found guilty in the U.S. District Court for the Southern District of Florida on one count of conspiracy to distribute prescription drugs wholesale without a license, in violation of 18 U.S.C. § 371.

73. Specifically, Defendant represented on his Naturalization Application and during his Naturalization Interview that 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. Accordingly, Defendant made these representations willfully.

74. Defendant's misrepresentations were material to his naturalization because the disclosure of his fraudulent scheme would have had a natural tendency to influence USCIS's decision whether to approve Defendant's Naturalization Application. Had Defendant disclosed the truth about his conduct, his statutory ineligibility for naturalization would have been disclosed, and USCIS would not have approved his application or administered the oath of allegiance.

75. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts.

76. Because Defendant procured his naturalization by willful misrepresentation and concealment of material facts, 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, respectfully 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, January 27, 2009;

4. Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages related to U.S. citizenship;

5. Judgment requiring Defendant to surrender and deliver, within ten (10) 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 Acting Attorney General, or to his representative, including undersigned counsel;

6. Judgment requiring Defendant to surrender and deliver, within ten (10) days of the entry of judgment against him, any other indicia of U.S. citizenship (including, but not limited to, U.S. passports, passport cards, and Enhanced Driver's 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 Acting Attorney General, or to 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: June 4, 2026

Respectfully submitted,

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