

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 9:26cv80919

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	COMPLAINT TO REVOKE
vs.	)	NATURALIZATION
	)	
JOSE FRANCISCO CRUZ,	)	
	)	
Defendant.	)	
	)	
	)	

Plaintiff, the United States of America, by its attorneys, alleges as follows:

I. PRELIMINARY STATEMENT OF THE CASE

The United States of America brings this civil action against Defendant Jose Francisco Cruz (Cruz) to revoke his naturalized U.S. citizenship under 8 U.S.C. § 1451(a). Before he became a citizen of the United States, Cruz engaged in criminal activity that he concealed throughout the naturalization process and that disqualified him from U.S. citizenship.

From on or between December 28, 1995 and June 6, 1998, Cruz engaged in sexual conduct with [REDACTED]

[REDACTED] In 1998, two years after Cruz naturalized, he was arrested for those crimes. Cruz thereafter pleaded guilty to three counts of sexual activity with a child, in violation of Fla. Stat. § 794.011(8)(b) and admitted that he had begun abusing his underaged victim before he naturalized. Cruz, therefore, could not have established the requisite good moral character for naturalization, and he illegally procured his U.S. citizenship. Moreover, in his Form 445A, Notice of Oath Ceremony, Cruz misrepresented

and concealed his criminal conduct falsely stating that he had never committed any crime or offense for which he had not been arrested.

In light of the sexual abuse Cruz perpetrated against a young child living in his home, which he concealed during his naturalization proceedings, he was ineligible for naturalization and, thus, illegally procured his citizenship. By hiding his crimes during his naturalization process, Cruz also procured his naturalization by concealment of a material fact or by willful misrepresentation. Accordingly, the United States seeks to revoke and set aside the order admitting Cruz to citizenship and to cancel his certificate of naturalization.

II. PARTIES, JURISDICTION, AND VENUE

1. This is an action filed under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Cruz to U.S. citizenship and to cancel his Certificate of Naturalization No. 21598156.

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1345 for a 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 Cruz's last known residence was in this District.

4. Defendant is a native of Honduras who obtained his U.S. citizenship through naturalization.

5. Plaintiff is the United States of America.

III. FACTUAL BACKGROUND

6. The affidavit of Jon Longo, a Special Agent with U.S. Immigration and Customs Enforcement (ICE) of the U.S. Department of Homeland Security (DHS), showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached hereto as Exhibit A.

A. Cruz's Criminal Acts and Guilty Plea Leading to His Florida State Conviction

7. Between December 28, 1995 and June 6, 1998, Cruz—who was 42 years of age as of December 28, 1995—sexually abused, L.L., the daughter of his longtime live-in girlfriend, while he was in a position of familial or custodial authority over her.

8. L.L. was 12-years old as of December 28, 1995.

9. Specifically, while L.L. was under his care and custody, Cruz, unlawfully and repeatedly 

 in violation of section 794.011(8)(b), Florida Statutes, a First Degree Felony.

10. On or about June 1, 1998, Cruz was arrested in connection with the above-detailed offenses. Cruz was thereafter charged by Information with three counts of Sexual Activity with a Child in violation of section 794.011(8)(b), Florida Statutes, and three counts of Lewd and Lascivious Molestation in violation of section 800.04(1), Florida Statutes.¹

11. A copy of the Third Amended Information containing the counts that Cruz ultimately pled guilty to in No. 98-006104-CF A02, as filed in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, State of Florida, is attached hereto as Exhibit B. Exhibit B is a true and complete copy of the document in question, except for redactions of immaterial personally identifying information.

12. On or about February 22, 1999, Cruz pled guilty in the Circuit Court of the Fifteenth Judicial District, Palm Beach County, Florida, to three counts of Sexual Activity with a Child in violation of section 794.011(8)(b), Florida Statutes, in full satisfaction of the Third

¹ The original Information charging Cruz was filed in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida on June 26, 1998. That Information was subsequently amended on several occasions. The final version was the Third Amended Information, which was filed on February 1, 1999.

Amended Information.

13. A copy of the Judgment that memorializes Cruz's conviction is attached hereto as Exhibit C. Exhibit C is a true and complete copy of the document in question, except for redactions of immaterial personally identifying information.

14. On or about February 22, 1999, Cruz was sentenced to a 20-year term of imprisonment in connection with his plea. Cruz was also required to register as a sex offender.

15. On or about April 9, 2001, Cruz was re-sentenced to a 16-year term of imprisonment in connection with his plea.

16. A copy of the Sentencing Memorandum that memorializes the sentence issued on April 9, 2001 is attached hereto as Exhibit D. Exhibit D is a true and complete copy of the document in question, except for redactions of immaterial personally identifying information.

B. Cruz's Naturalization

17. Cruz was admitted to the United States as a permanent resident on September 13, 1990.

18. On or about March 7, 1995, Cruz filed an Application for Naturalization, Form N-400, with the legacy Immigration and Naturalization Service ("INS") in Miami, Florida.²

19. At the time he filed the application, Cruz used the name "Jose F. Cruz" and alien registration number A 

20. An INS employee in the Miami District Office interviewed Cruz under oath on or about November 15, 1995, to determine his eligibility for naturalization. On the basis of his

² As of March 1, 2003, the INS ceased to exist, and its functions were transferred to various bureaus within DHS. *See* Homeland Security Act of 2002, §§ 441, 451, 471, Pub. L. No. 107-296, 116 Stat. 2135 (2002) (codified at 6 U.S.C. §§ 251, 271, 291). This transfer does not affect the issues in this case. Because Mr. Cruz's naturalization case was adjudicated before the transfer, this Affidavit of Good Cause will reference the INS as necessary.

written application and his testimony at the naturalization interview, the INS approved Cruz's application for naturalization.

21. On or about January 10, 1996, the INS issued Cruz a "Notice of Naturalization Oath Ceremony," Form N-445A. This form instructed Cruz to appear for an oath ceremony on February 20, 1996. He was also instructed to complete the questions on the reverse side of the form and to present the form to the INS when he appeared at the oath ceremony.

22. Question 3 on the reverse side of the Form N-445A asked, among other things, whether Cruz, after the date he filed his petition for naturalization, had knowingly committed any crime or offense for which he had not been arrested.

23. Cruz completed the questions on the reverse side of the Form N-445A and certified the truth of his answers. He signed the form and submitted it to the INS on February 20, 1996, when he appeared to take the oath of allegiance.

24. In response to question 3 on the reverse side of the Form N-445A, Cruz represented that, after his interview for naturalization on November 15, 1995, he had not knowingly committed any crime or offense for which he had not been arrested. This representation was false. In fact, Cruz engaged in unlawful sexual activity with his minor stepdaughter on or between December 28, 1995 and June 6, 1998.

25. On or about February 20, 1996, before taking the oath of allegiance, Cruz submitted INS Form N-445A, Notice of Naturalization Ceremony, to the INS.

26. A copy of both sides of the Form N-445A is attached as Exhibit E. Exhibit E is a true and complete copy of the document in question, except for redactions of immaterial personally identifying information.

27. Based on the representations he made on this form, Cruz was allowed to take the oath of allegiance on February 20, 1996, and was granted United States citizenship. He was issued Certificate of Naturalization No. 

28. A copy of Cruz's Certificate of Naturalization is attached hereto as Exhibit F. Exhibit F is a true and complete copy of the document in question, except for redactions of immaterial personally identifying information.

IV. GOVERNING LAW

A. Congressionally imposed prerequisites to the acquisition of citizenship.

29. 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).

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

31. 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).

32. 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).

33. Thus, individuals who commit unlawful acts during the statutory period adversely reflecting upon their moral character cannot meet the good moral character requirement, unless they prove extenuating circumstances. *See* 8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii).

34. 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. *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

35. 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.

36. 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*:

- a. illegally procured, *or*
- b. procured by concealment of a material fact or by willful misrepresentation.

37. 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.

38. Naturalization has been 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).

39. 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.

V. CAUSES OF ACTION

COUNT I

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

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

41. As discussed above, to be eligible for naturalization an applicant must show that he has been a person of good moral character for the five-year statutory period before he files a naturalization application, and until the time he becomes a naturalized U.S. citizen. 8 U.S.C. §§ 1427(a)(3), 1429; 8 C.F.R. § 316.10(a)(1).

42. As an applicant for naturalization pursuant to 8 U.S.C. §1427(a), Cruz was required to prove that he was a person of good moral character from March 7, 1990, five years before he filed his application for naturalization, until February 20, 1996, the date on which he was admitted as a citizen of the United States (the "statutory period").

43. Cruz 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. 8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii).

44. Specifically, as set forth above, from on or between December 28, 1995 and June 6, 1998, Cruz perpetrated unlawful, sexual acts against his minor stepdaughter in violation of Fla. Stat. § 794.011(8)(b).

45. Cruz began these unlawful acts during the statutory period.

46. Sexual Activity with a Child is a First Degree felony punishable by up to 30 years' incarceration and is an unlawful act that adversely reflects upon an individual's moral character as measured against the standards of the average citizen in the community of residence.

47. As evidenced by his post-naturalization conviction, there were no extenuating circumstances that could have mitigated the effect of Cruz's actions on his ability to establish good moral character.

48. Cruz's unlawful 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).

49. Because Cruz was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his citizenship under 8 U.S.C. § 1451(a).

COUNT II

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

50. The United States re-alleges and incorporates by reference the factual and legal allegations contained in Sections II through IV of this complaint.

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

52. As set forth above, during the naturalization process, Cruz willfully misrepresented and concealed his involvement in unlawful, sexual acts with his minor stepdaughter.

53. Specifically, Cruz voluntarily and deliberately represented on the questionnaire of his Form N-445, Notice of Oath Ceremony, 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, Cruz made these representations willfully.

54. Cruz's misrepresentations were material to his naturalization because the disclosure of his criminal, sexual acts would have had a natural tendency to influence INS's decision whether to approve Cruz's taking of the Naturalization Oath of Allegiance ("the Oath").

55. Had Cruz disclosed the truth about his conduct, he would have disclosed his statutory ineligibility for naturalization, and INS would not have approved his taking of the Oath.

56. Cruz 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, respectfully requests:

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

3. Judgment revoking and setting aside Cruz's naturalization and canceling Certificate of Naturalization No.  effective as of the original date of the order and certificate, February 20, 1996;

4. Judgment forever restraining and enjoining Cruz from claiming any rights, privileges, benefits, or advantages in connection with his February 20, 1996 naturalization;

5. Judgment requiring Cruz 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 Acting Attorney General, or his representative, including undersigned counsel;

6. Judgment requiring Cruz to surrender and deliver, within ten 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 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 Acting 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: July 31, 2026

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