

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**CASE NO. 1:18-cv-21835**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 NORMA I. BORGONO, )  
 a/k/a Norma Isabel Borgono Bedoya, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**COMPLAINT TO REVOKE  
NATURALIZATION**

**I. PRELIMINARY STATEMENT**

The United States of America brings this civil action against Defendant Norma Borgono a/k/a Norma Isabel Borgono Bedoya (“Defendant”) to revoke her 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 she was charged and convicted after naturalizing. Specifically, before she became a citizen of the United States, Defendant engaged in criminal activity that she concealed throughout the naturalization process and that disqualified her from U.S. citizenship. Between at least April 2003 until May 2009, Defendant conspired to obtain more than \$24 million in fraudulent loan transactions from the U.S. Export-Import Bank (“Ex-Im Bank”). Yet when Defendant filed her naturalization application in February 2007 and was interviewed in November 2007, in the middle of her fraudulent scheme, she stated that she had never committed a crime for which she had not been arrested. In 2011, after Defendant naturalized, she was arrested for the foregoing crime. On December 12, 2011, she pled guilty to Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371. In

light of Defendant's fraudulent scheme, which she has admitted to and been convicted for and which she misrepresented and concealed throughout her naturalization proceedings, she was ineligible for naturalization and thus procured her 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. 30333315.

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 Peru, and is a naturalized U.S. citizen. Defendant's last known address of residence is in Miami, Florida.

## **III. FACTUAL BACKGROUND**

6. The affidavit of David Jansen, 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 Fraud Scheme & Federal Conviction**

7. Between at least April 2003 until May 2009, Defendant was the office

manager of Texon, Incorporated (“Texon”). Texon was headquartered in Miami, Florida, and was an exporting company that was in the business of purchasing U.S. goods on behalf of clients in the Caribbean, Central America, South America, and other foreign countries, and shipping those goods overseas. Texon was owned by Guillermo Mondino (“Mondino”).<sup>1</sup> *See* Statement of the Offense, *United States v. Borgono*, No. 1:11-cr-00332-RMU (D.D.C. 2011), ECF No. 10 ¶ 1 (attached as Exhibit B).

8. From at least April 2003 until May 2009, Defendant, Mondino, and others conspired: (1) to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions in which Texon acted as the “exporter”; (2) to falsify documents sent to U.S. banks and to the Ex-Im Bank; and (3) to misappropriate \$14.1 million in loan proceeds that were guaranteed by the Ex-Im Bank. *Id.* ¶ 2.

9. Specifically, between at least April 2003 and May 2009, Defendant and Mondino agreed to prepare, and did prepare, false applications for insurance or guarantees that would be submitted to the Ex-Im Bank in order to induce the Ex-Im Bank to insure or guarantee approximately \$24 million of loans to the debtors from commercial banks, knowing and intending that all or some of the goods identified on the applications would not be purchased and/or would not be shipped to the debtor. *Id.* ¶¶ 3-9.

10. At Mondino’s instruction, Defendant prepared false documents stating that U.S. goods had been or would be shipped to the foreign buyers, and then Mondino submitted those documents to the Ex-Im Bank through various lending banks. *Id.* ¶ 7.

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<sup>1</sup> Although the Statement of the Offense lists the owner as “Co-Conspirator 1”, Mondino’s identity was later revealed. *See, e.g.*, Office of Inspector General, *Former Office Manager for Miami Export Company Sentenced for Her Role in Defrauding Export Import Bank of the United States*, EXPORT-IMPORT BANK OF THE UNITED STATES (May 15, 2012), <https://www.exim.gov/sites/default/files/oig/Borgono-Sentencing-120515.pdf>.

11. Defendant prepared, or caused to be prepared, at the direction of Mondino, false documents for submission to the U.S. banks or the Ex-Im Bank, including false commercial invoices, bills of lading, and Ex-Im Bank “Form of Exporter’s Certificates,” stating that certain goods had been purchased and had been or would be shipped, but knowing that they had not been and would not be purchased and/or shipped. *Id.*

12. Defendant and Mondino knew at the time the loan applications were submitted to the Ex-Im Bank that they falsely reported to lending banks the purchase and export of U.S. goods to buyers in South and Central America. *Id.* ¶¶ 7-8.

13. Between at least April 2003 and May 2009, the Ex-Im Bank issued insurance or guarantees on more than \$24 million worth of fraudulent loans based on applications submitted to the Ex-Im Bank, including false statements made by Defendant and Mondino, or at their direction. *Id.* ¶ 9.

14. Texon and its related entities retained approximately \$2.5 million of the proceeds of the Ex-Im Bank-insured or guaranteed loans. *Id.* ¶ 11.

15. On October 31, 2007, Mondino wired \$1,996.75 from a Texon bank account to Defendant’s bank account. These transferred funds were Ex-Im Bank-guaranteed loan proceeds and were retained by Defendant. *Id.*

16. Between April 2003 and October 1, 2011, Ex-Im Bank paid more than \$15 million to lending banks or their assignees based on claims on guaranteed loans that had defaulted. As of April 1, 2010, more than \$12.9 million of the amounts paid on claims for defaulted loans remained unrecovered. *Id.* ¶ 12.

17. On November 14, 2011, Defendant was charged by Criminal Information with Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of

18 U.S.C. § 371, a felony offense. *See* Information, *United States v. Borgono*, No. 1:11-cr-00332-RMU (D.D.C. 2011), ECF No. 1 (attached as Exhibit C).

18. On December 12, 2011, Defendant pled guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371. *See* Plea Agreement, *United States v. Borgono*, No. 1:11-cr-00332-RWR (D.D.C. 2011), ECF No. 11 (attached as Exhibit D); Judgment, *United States v. Borgono*, No. 1:11-cr-00332-RWR (D.D.C. 2012), ECF No. 32 at 1 (attached as Exhibit E).

19. On May 10, 2012, Defendant was sentenced to probation for a term of 60 months and ordered to pay restitution in the amount of \$5,000 to the Ex-Im Bank. Defendant was also ordered to forfeit a money judgment in the amount of \$1,996.75, which constituted the proceeds of the conspiracy offense to which she pled guilty. *See* Ex. E.

B. Defendant's Naturalization Application and Oath Ceremony

20. At the same time Defendant was engaged in her conspiracy to misappropriate funds from the Ex-Im Bank, she applied to naturalize and become a U.S. citizen, maintaining that she possessed the requisite good moral character.

21. On or about February 6, 2007, Defendant filed a Form N-400, Application for Naturalization ("Naturalization Application") with U.S. Citizenship and Immigration Services ("USCIS"). *See* Form N-400, Application for Naturalization (attached as Exhibit F).

22. In her 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).

23. On or about January 31, 2007, Defendant signed the naturalization application under penalty of perjury, thereby certifying that her answers to the questions therein were true and correct.

24. On November 21, 2007, Praveen Harris,<sup>2</sup> an officer with USCIS, orally interviewed Defendant regarding her Naturalization Application to determine her eligibility for naturalization.

25. At the beginning of the interview, Officer Harris placed Defendant under oath.

26. During the interview, Officer Harris asked Defendant, consistent with part 10, question 15 of Defendant’s Naturalization Application, whether she had ever committed a crime or offense for which she was not arrested.

27. Defendant verbally confirmed her written response, stating that she had never committed a crime or offense for which she was not arrested.

28. Defendant’s testimony regarding her commission of a crime or offense was false.

29. At her naturalization interview, Defendant did not disclose her ongoing criminal conduct creating and submitting fraudulent loan applications to lending banks affiliated with the Ex-Im Bank for which more than \$24 million in Ex-Im Bank-insured loan proceeds were received.

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<sup>2</sup> The USCIS officer signed the naturalization application using her maiden name.

30. In fact, at no point during the naturalization process did Defendant disclose to USCIS her recent conduct conspiring to defrauding the Ex-Im Bank, which was then ongoing.

31. At the end of the interview, Defendant again signed the Naturalization Application in the presence of Officer Harris and swore that the contents of her application, including eleven numbered changes, were true and correct to the best of her knowledge.

32. Based upon the information supplied by Defendant in her Naturalization Application, and the sworn answers she gave during her November 21, 2007 naturalization interview, USCIS approved the application.

33. Defendant received a Notice of Naturalization Oath Ceremony (“Oath Notice”), which indicated her naturalization oath ceremony would take place on December 20, 2007, in Miami Beach, Florida. *See* Form N-445, Notice of Naturalization Oath Ceremony (attached as Exhibit G).

34. The following instructions appear on the Oath Notice:

In connection with your application for naturalization, please answer each of the questions by checking “Yes” or “No.” You must answer these questions the day you are to appear for your citizenship oath ceremony. These questions refer to actions since the date you were first interviewed on your Application for Naturalization. The questions do not refer to anything that happened before the interview.

After you have answered every question, sign your name and fill in the date and place of signing, and provide your current address.

You must bring this completed questionnaire with you to the oath ceremony, as well as the documents indicated on the front, and give them to the employee of the U.S. Citizenship and Immigration Services at the oath ceremony. You may be questioned further on your answers at that time.

*See* Exhibit G at 2.

35. Defendant answered “No” in response to Question 3 on the Oath Notice, which asked: “AFTER the date you were first interviewed on your Application for Naturalization, Form N-400: . . . Have you knowingly committed any crime or offense, for which you have not been arrested?” *Id.*

36. Defendant signed the Oath Notice, certifying that “each of the answers shown above were made by me or at my direction, and that they are true and correct as of the date of my naturalization oath ceremony.” *Id.*

37. On December 20, 2007, Defendant took the Oath of Allegiance to become a U.S. citizen. She was issued Certificate of Naturalization No. 30333315. *See* Form N-550, Certificate of Naturalization (attached as Exhibit H).

#### 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. As a matter of law, an applicant necessarily lacks good moral character if he or she commits a crime involving moral turpitude (“CIMT”) during the statutory period and later either is convicted of the crime or admits his or her commission of the criminal activity. 8 U.S.C. § 1101(f)(3) (cross-referencing 8 U.S.C. § 1182(a)(2)(A)); 8 C.F.R. § 316.10(b)(2)(i) (providing that an applicant “shall be found to lack good moral character” if, for example, they committed and were convicted of one or more crimes involving moral turpitude).

42. Congress has also 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).

43. 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).

44. 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. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

45. “[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)).

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

47. 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.

48. 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.

49. 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.

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** **(CRIMES INVOLVING MORAL TURPITUDE)**

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

52. As discussed above, to be eligible for naturalization an applicant must show that she has been a person of good moral character for the five-year statutory period before she files a Naturalization Application, and until the time she becomes a naturalized U.S. citizen. 8 U.S.C. §§ 1427(a)(3); 8 C.F.R. § 316.10(a)(1). Thus, Defendant was required to establish that she was a person of good moral character from February 6, 2002, until the date she became a U.S. citizen, on December 20, 2007 (the "statutory period").

53. Defendant was statutorily precluded from establishing the good moral character necessary to naturalize because she committed a CIMT during the statutory period. 8 U.S.C. § 1101(f)(3); 8 C.F.R. § 316.10(b)(2)(i).

54. As set forth above, Defendant conspired to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions by falsifying documents sent to U.S. banks and to the Ex-Im Bank.

55. Defendant pled guilty to Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371.

56. Defendant committed that crime and underlying fraud during the statutory period.

57. Defendant's conviction under 18 U.S.C. § 371, as a fraud related offense, constitutes a CIMT. *See Jordan v. De George*, 341 U.S. 223, 229 (1951) ("American courts have, without exception, included [fraud] crimes within the scope of moral turpitude.").

58. Because Defendant committed a CIMT during the statutory period, to which she later admitted and for which she was convicted, Defendant was barred under 8 U.S.C. § 1101(f)(3) from showing that she had the good moral character necessary to become a naturalized U.S. citizen.

59. Because Defendant committed a CIMT and was therefore not a person of good moral character, she was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

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

## **COUNT II**

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

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

62. As noted above, to be eligible for naturalization, Defendant was required to establish that she was a person of good moral character from February 6, 2002, until the date she became a U.S. citizen, on December 20, 2007.

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

64. Specifically, as set forth above, between at least April 2003 until or about May 2009, Defendant and a co-conspirator conspired: 1) to obtain from the Ex-Im Bank more than \$24 million in fraudulent loan transactions in which Defendants' employer, Texon, acted as the "exporter"; 2) to falsify documents sent to U.S. banks and to the Ex-Im Bank; and 3) to misappropriate \$14.1 million in loan proceeds that were guaranteed by the Ex-Im Bank.

65. On December 12, 2011, Defendant pled guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud in violation of 18 U.S.C. § 371.

66. Defendant committed these crimes and the underlying fraud during the statutory period.

67. Defendant cannot establish extenuating circumstances with regard to the conspiratorial conduct and fraudulent acts underlying her guilty plea pursuant to 18 U.S.C. § 371. She therefore cannot avoid the regulatory bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii).

68. The regulatory “unlawful acts” bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii) applies to Defendant regardless of whether the statutory CIMT bar (set forth in Count I) also applies to her.

69. Defendant’s fraudulent conduct precluded her from establishing good moral character, rendering her ineligible for naturalization at the time she took the oath of allegiance. *See* C.F.R. § 316.10(b)(3)(iii).

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

**COUNT III**

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

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

72. As discussed above, to be eligible for naturalization, Defendant was required to establish that she was a person of good moral character from February 6, 2002, until the date she became a U.S. citizen, on December 20, 2007.

73. Defendant was statutorily precluded from showing that she was a person of good moral character because she 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).

74. As set forth above, during the statutory period, Defendant provided false testimony for the purpose of obtaining an immigration benefit when she swore, under oath, during her November 21, 2007 naturalization interview, that her answer to part 10,

question 15 was true to the best of her knowledge, and that she had never committed a crime or offense for which she had not been arrested.

75. Because Defendant provided false testimony under oath for the purpose of obtaining her naturalization, she was barred under 8 U.S.C. § 1101(f)(6) from showing that she had the good moral character necessary to become a naturalized U.S. citizen.

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

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

#### **COUNT IV**

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

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

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

80. As set forth above, throughout the naturalization process, Defendant willfully misrepresented and concealed her involvement in an ongoing criminal conspiracy to obtain more than \$24 million in fraudulent loan transactions from the Ex-Im Bank, for which she later pleaded guilty in the U.S. District Court for the District of Columbia to one count of Conspiracy to Defraud the United States and to Commit Mail Fraud, in violation of 18 U.S.C. § 371.

81. Specifically, Defendant represented on her Naturalization Application, during her naturalization interview, and on her Oath Notice that she had never knowingly committed any crime or offense for which she had not been arrested, despite knowing that such representations were false and misleading. Accordingly, Defendant made these representations willfully.

82. Defendant's misrepresentations were material to her naturalization because the disclosure of her 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 her conduct, her statutory ineligibility for naturalization would have been disclosed, and USCIS would not have approved her application or administered the oath of allegiance.

83. Defendant thus procured her naturalization by willful misrepresentation and concealment of material facts, and this Court must revoke her 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 her citizenship;
2. A declaration that Defendant procured her citizenship by concealment and willful misrepresentation of material facts;
3. Judgment revoking and setting aside Defendant's naturalization and canceling Certificate of Naturalization No. 30333315, effective as of the original date of the order and certificate, December 20, 2007;



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 her, her Certificate of Naturalization, and any copies thereof in her possession – and to make good faith efforts to recover and immediately surrender any copies thereof that she 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 (10) days of the entry of judgment against her, any other indicia of U.S. citizenship (including, but not limited to, U.S. passports, voter registration cards, and other voting documents), and any copies thereof in her possession – and to make good faith efforts to recover and then surrender any copies thereof that she 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: May 8, 2018

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Respectfully submitted,

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