

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

NEDJO MILOSEVIC,

Defendant.

Case No. _____

**COMPLAINT TO REVOKE
NATURALIZATION**

PRELIMINARY STATEMENT

This is a civil denaturalization action, in which the United States of America seeks to revoke the naturalized citizenship of Nedjo Milosevic (“Defendant”), a native and formerly a citizen of Yugoslavia and subsequently a citizen of the Republic of Bosnia and Herzegovina (“Bosnia”). As detailed below, Defendant fraudulently and unlawfully procured refugee status, lawful permanent residence, and, later, U.S. citizenship by concealing and misrepresenting his military service with the Zvornik Infantry Brigade of the Army of Republika Srpska (“VRS”),¹ one of the military units that perpetrated the 1995 Srebrenica massacre – the largest mass atrocity in Europe since World War II – as well as violent ethnic and religious persecution of Bosnian-Muslim civilians in the villages of Djulici and Klisa in 1992.² In addition to concealing his

¹ The Army of Republika Srpska, known by its Bosnian-Croatian-Serbian (“BCS”) acronym “VRS” (*Vojska republike srpske*), was the military branch of the breakaway Bosnian-Serb entity known as Republika Srpska, which occupied territory that today is part of the Republic of Bosnia and Herzegovina.

² The persecution of Bosnian Muslims at Djulici and Klisa was committed by members of the “Brnjica” Company, which was amalgamated into the Zvornik Infantry Brigade when the Brigade was officially formed in June 1992. As used in this Complaint, reference to the

membership in the VRS, Defendant concealed and misrepresented the location of his residence during and after the war in order to fraudulently qualify for refugee status.

On the basis of his misrepresentations, Defendant was admitted to the United States in 1998 as a refugee. Defendant subsequently obtained permanent residence on the basis of his refugee status and, in turn, naturalized as a U.S. citizen in 2004. Defendant never disclosed during any part of the immigration or naturalization process that during the Balkans conflict he had been a member of the Zvornik Infantry Brigade (or, indeed, a member of the VRS at all), and misrepresented that he had fled from Bosnia to Serbia during the war, when in fact he had not. Accordingly, Defendant was never substantively eligible for classification as a refugee, was never lawfully admitted for permanent residence, and, in turn, was never eligible to naturalize. In addition, Defendant procured his naturalization by willful misrepresentation and concealment of material facts. Thus, with the attached affidavit of good cause, the United States brings this civil action to revoke and set aside the order admitting Defendant to U.S. citizenship and to cancel his certificate of naturalization.

I. JURISDICTION, VENUE, AND PARTIES

1. This is an action under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Defendant to citizenship and to cancel his Certificate of Naturalization No. 28556900.

2. This Court has subject-matter jurisdiction pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. §§ 1331 and 1345.

3. Defendant resides in Harwood Heights, Illinois, which is within the jurisdiction and venue of this Court. Thus, venue is proper in this district pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391.

“Zvornik Infantry Brigade” includes Bosnian-Serb military units operating in the territory of the Zvornik municipality prior to their reorganization under a common command structure.

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

5. Defendant is a naturalized United States citizen, was formerly a citizen of Yugoslavia and, subsequently, of Bosnia and Herzegovina, and is a native of Yugoslavia.

II. FACTUAL BACKGROUND

6. The affidavit of Robert Lessnau, 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 hereto as Exhibit A.

IMMIGRATION HISTORY

7. On or about September 3, 1998, Defendant filed a Form I-590, *Registration for Classification as a Refugee* (“Form I-590”), with the former Immigration and Naturalization Service (“INS”).³

8. Defendant indicated in his Form I-590 that he was then living at that time in Loznica, in the Federal Republic of Yugoslavia,⁴ where he had refugee status.

9. Defendant indicated in his Form I-590 that he had been displaced from Bosnia since January 1994.

10. Defendant indicated in his Form I-590 that his son Aleksandar was born in 1993 in Zvornik, in Bosnia and Herzegovina, and that his son Radovan was born in 1998 in Loznica, in the Federal Republic of Yugoslavia.

³ On March 1, 2003, the INS ceased to exist and many of its relevant functions transferred to DHS. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, 110 Stat. 2135 (Nov. 25, 2002). However, because the many of the events in this case took place prior to the transfer, “INS” will be referenced where factually accurate.

⁴ In 1998, the Federal Republic of Yugoslavia consisted of what today are the separate nations of Serbia and Montenegro.

11. Under the heading “Military Service,” Defendant indicated only that he had been a private in the Yugoslav National Army⁵ in 1984.

12. Question 14 on the Form I-590 required Defendant to list: “Political, professional or social organizations of which I am now or have been a member or with whom I am now or have been affiliated since my 16th birthday (If you have never been a member of any organization, state ‘None.’).” In response to this question, Defendant wrote “None.”

13. On February 17, 1999, Defendant again signed the Form I-590, this time under oath before an immigration officer, attesting that its contents were true and correct.

14. In conjunction with the Form I-590, Defendant was required to submit a Form G-646, *Sworn Statement of Refugee Applying for Admission into the United States* (“Form G-646”). Among other things, Defendant certified on the Form G-646 that he had not committed a crime involving moral turpitude, and that he had not attempted to procure a visa by fraud or misrepresentation. Defendant indicated that these grounds of inadmissibility did not apply to him.

15. In conjunction with the Form I-590, Defendant also submitted a Form G-325C, *Biographic Information* (“Form G-325C”). Defendant indicated that he lived in Zivinice in what was then Bosnia and Herzegovina from 1984 until January 1994, and in Loznica in what was then Serbia (Federal Republic of Yugoslavia) from January 1994 until the present time, i.e., September 1998, and therefore outside the country of his nationality, i.e., Bosnia and Herzegovina.

⁵ The Yugoslav National Army, known by its BCS acronym “JNA” (*Jugoslovenska narodna armija*), was the national army of the Socialist Federal Republic of Yugoslavia from 1945 to 1992.

16. Upon information and belief, Defendant was not, in fact, residing in Serbia (Federal Republic of Yugoslavia) during the war and for at least some time thereafter.

17. At all times relevant to determining his eligibility for refugee status, Defendant was living in what is today the Republic of Bosnia and Herzegovina, and specifically in Republika Srpska, an autonomous federal entity within the Republic of Bosnia and Herzegovina populated largely with and controlled by ethnic Serbs.

18. On the Form G-325C, Defendant also indicated that he worked as a metal worker at Djurdjevik near Zivinice from 1988 to April 1992, and that he had been unemployed since April 1992.

19. Based on the information in his I-590 and accompanying forms, the INS classified Defendant as a refugee and he was admitted to the United States in that status on July 20, 1999.

20. On or about October 19, 2000, Defendant filed a Form I-485, *Application to Register Permanent Residence or Adjust Status* (“Form I-485”).

21. Part 3, subpart C of the Form I-485 required Defendant to list his “present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place since your 16th birthday. Include any foreign military service in this part.” In response to this question, Defendant wrote “Military Service 08.1984 – 09.1985 in JNA from former Yugoslavia.” Defendant did not indicate that he was ever a member of the VRS, the military of the Bosnian-Serb entity known as Republika Srpska within Bosnia and Herzegovina. Similarly, Defendant did not indicate that he was ever a member of any subordinate component of the VRS, including the Zvornik Infantry Brigade, the Birac Infantry Brigade, or the Brnjica Company.

22. Part 3, Question 8 of the Form I-485 asks: “Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin, or political opinion?” In response to this question, Defendant checked the box marked “No.”

23. On August 7, 2000, Defendant signed the Form I-485 under penalty of perjury, certifying the information it contained was true and correct.

24. The INS approved the Form I-485 on November 13, 2001, granting Defendant the status of a permanent resident retroactive to July 20, 1999, the date of his admission as a refugee.

NATURALIZATION PROCEEDINGS

25. On or about May 18, 2004, Defendant filed a Form N-400, *Application for Naturalization* (“Form N-400”), with U.S. Citizenship and Immigration Services (“USCIS”).

26. In Part 9(B) of the Form N-400, Defendant indicated that his son Aleksandar was born in April 1993 in Bosnia-Herzegovina and that his son Radovan was born in September 1998 in Yugoslavia.⁶

27. Question 8(a) in Part 10(B) of the Form N-400 asks, “Have you **EVER** been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place?” In response to this question, Defendant checked the box marked “No” and left blank the space to identify such membership.

28. Question 11 in Part 10(B) of the Form N-400 asks, “Have you **EVER** persecuted (*either directly or indirectly*) any person because of race, religion, national origin, membership in a particular social group, or political opinion?” In response to this question, Defendant checked the box marked “No.”

⁶ As noted above, “Yugoslavia” in 1998 was the Federal Republic of Yugoslavia, consisting of what later became Serbia and Montenegro.

29. Question 15 in Part 10(D) of the Form N-400 asks, “Have you **EVER** committed a crime or offense for which you were NOT arrested?” In response to this question, Defendant checked the box marked “No.”

30. Question 23 in Part 10(D) of the Form N-400 asks, “Have you **EVER** given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal?” In response to this question, Defendant checked the box marked “No.”

31. Question 24 in Part 10(D) of the Form N-400 asks, “Have you **EVER** lied to any U.S. government official to gain entry or admission into the United States?” In response to this question, Defendant checked the box marked “No.”

32. On or about May 12, 2004, Defendant signed the application in Part 11, thereby certifying under penalty of perjury that the contents of the application were true and correct.

33. On October 7, 2004, an immigration officer placed Defendant under oath and interviewed him regarding his naturalization application.

34. At the end of his naturalization interview, Defendant again signed his Form N-400 under penalty of perjury, thereby attesting that the information it contained was true and correct.

35. Based on Defendant’s sworn statements on his Form N-400 and his testimony at his naturalization interview, USCIS approved Defendant’s application for naturalization on October 7, 2004.

36. Based on his approved Form N-400, on November 2, 2004, Defendant took the oath of allegiance, admitting him to United States citizenship, and was issued Certificate of Naturalization No. 28556900.

**DEFENDANT’S CONCEALED AND MISREPRESENTED
MILITARY MEMBERSHIP AND RESIDENCE**

37. Defendant was a resident of Bosnia and Herzegovina until at least June 1996.

38. Defendant joined the Birac Infantry Brigade of the VRS no later than April 1992, and was a member of the Zvornik Infantry Brigade of the VRS from June 1992⁷ until at least June 1996.

39. Beginning no later than December 1992 and continuing until at least June 1996, Defendant was a member of the Zvornik Infantry Brigade’s Military Police Company.

40. The Military Police Company of the Zvornik Infantry Brigade assisted or otherwise participated in persecution of Bosnian Muslims, including mass killings, in and around the United Nations-designated “Safe Area” of Srebrenica in July 1995.

41. During July 1995, in and around Srebrenica, it is estimated that approximately 8,000 Bosnian Muslim men and boys were systematically killed and more than 30,000 women, children, and elderly were forcibly separated from the males and expelled from the region. There were also numerous instances of torture, rape, and other persecutory acts. The U.S. House of Representatives, the International Criminal Tribunal for the former Yugoslavia, the State Court of Bosnia and Herzegovina War Crimes Section, and the International Court of Justice have concluded that the mass killings and other acts of persecution at Srebrenica constituted acts of genocide.⁸

⁷ Although the Brigade was officially formed in June 1992, membership records were backdated to May 25, 1992, to reflect the date that many of its members were forced from their homes in the areas surrounding Zivinice.

⁸ See, e.g., H. Res. 310, 114th Cong. (2015) (“Expressing the sense of the House of Representatives regarding Srebrenica”), available at <https://www.congress.gov/bill/114th-congress/house-resolution/310/text>; *Application of the Convention on the Prevention & Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia & Montenegro)*,

42. Elements of what would become the Zvornik Infantry Brigade, including the Brnjica Company, also assisted or otherwise participated in the violent expulsions of Bosnian Muslims from the villages of Djulici and Klisa in Zvornik Municipality in 1992. The Brnjica Company was directed to find and detain all the inhabitants of Djulici and Klisa. The Brnjica Company employed substantial and lethal violence in order to carry out this order. Approximately 2,500 women and children were unlawfully expelled from the villages to territory held by the internationally recognized Bosnian Government. The approximately 750 men who survived the initial assault were arrested by members of the Brnjica Company and forced to go to a detention facility near Zvornik. Over the next two weeks these men were persecuted, and those still alive after two weeks' time were taken to a remote location in Zvornik Municipality and executed. Although the Brnjica Company is not known to have perpetrated these murders, the evidence indicates that the Company arrested the victims. The men of the Brnjica Company, including Defendant, were permitted to take over the victims' housing and personal property for their own use.

III. GOVERNING LAW

Congressionally Imposed Prerequisites to the Acquisition of Citizenship

43. 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

Judgment, *I.C.J. Reports 2007*, p. 43 (Feb. 26), available at <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgment, (Int'l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001), available at <http://www.icty.org/x/cases/krstic/tjug/en/krs-tj010802e.pdf>; *Prosecutor v. Mitrović*, Case No. S 1 K 014264 13 Krž, Second-Instance Verdict, (Court of Bosnia and Herzegovina, Section I for War Crimes, Appellate Division Jan. 22, 2014), available at <http://www.sudbih.gov.ba/predmet/2543/show>.

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 this Nation can rightfully obtain them only upon the terms and conditions specified by Congress.”) (quoting *Ginsberg*, 243 U.S. at 474)).

44. To qualify for naturalization, an applicant must have been lawfully admitted to the United States for permanent residence and subsequently resided in this country for at least five years prior to the date of application. *See* 8 U.S.C. § 1427(a)(1); *see also id.* § 1429. The term “lawfully” requires compliance with the substantive legal requirements for admission, and not mere procedural regularity. *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011).

45. An alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure, or has procured) a visa, other documentation, or admission into the United States or other immigration benefit is inadmissible. 8 U.S.C. § 1182(a)(6)(C)(i).

46. 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 United States citizen. *Id.*

47. In addition to identifying classes of individuals who lack good moral character, Congress created a “catch-all” provision, which states, “[t]he fact that any person is not within any of the foregoing classes [of ineligibility] 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).

48. Of particular note, individuals who commit unlawful acts adversely reflecting upon their moral character cannot meet the good moral character requirement, unless they prove that extenuating circumstances exist. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

The Denaturalization Statute

49. 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.

50. 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.

51. 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.

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

53. 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 NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE (PERSECUTOR INELIGIBLE FOR ADMISSION AS REFUGEE)

54. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

55. As noted above, to qualify for naturalization, an applicant must have been lawfully admitted to the United States for permanent residence. *See* 8 U.S.C. §§ 1427(a)(1) and 1429.

56. The term “lawfully” requires compliance with the substantive legal requirements for admission, and not mere procedural regularity. 8 U.S.C. § 1101(a)(20); *Suarez*, 664 F.3d at 661.

57. “The term ‘refugee’ does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42).

58. Defendant assisted or otherwise participated in the persecution of thousands of Bosnian Muslims while “deployed in the field” during the Srebrenica massacre in July 1995.

59. Defendant also assisted or otherwise participated in the persecution of Bosnian Muslim civilians in the villages of Djulici and Klisa in 1992.

60. Because Defendant did not meet the legal definition of a refugee under 8 U.S.C. § 1101(a)(42), he was never substantively eligible to adjust his status to that of a permanent resident under 8 U.S.C. § 1159(b)(3).

61. Because Defendant was never lawfully admitted for permanent residence in accordance with the substantive requirements for that status, he was and remains ineligible for naturalization under 8 U.S.C. § 1427(a)(1) and § 1429.

62. Defendant illegally procured his citizenship because at the time he naturalized, he was not lawfully admitted for permanent residence and the Court must therefore revoke his naturalization as provided for in 8 U.S.C. § 1451(a).

COUNT II

ILLEGAL PROCUREMENT OF NATURALIZATION **NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE** **(PROCURED BY FRAUD OR WILLFUL MISREPRESENTATION)**

63. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

64. To qualify for naturalization, an applicant must have been lawfully admitted to the United States for permanent residence. *See* 8 U.S.C. § 1427(a)(1); *see also id.* § 1429.

65. The term “lawfully” requires compliance with the substantive legal requirements for admission, and not mere procedural regularity. 8 U.S.C. § 1101(a)(20); *Suarez*, 664 F.3d at 661.

66. An alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure, or has procured) a visa, other documentation, or admission into the United States or other immigration benefit is inadmissible. 8 U.S.C. § 1182(a)(6)(C)(i).

67. Defendant was never lawfully admitted as a permanent resident and cannot satisfy the requirements of 8 U.S.C. § 1427(a)(1) and 8 U.S.C. § 1429, because he was inadmissible at the time of his admission as a permanent resident.

68. Defendant misrepresented or concealed material facts on at least four occasions.

69. First, at the time Defendant applied for classification as a refugee, he willfully misrepresented that during the war he was residing in Serbia (Federal Republic of Yugoslavia), when he was, in fact, residing in Bosnia and Herzegovina. Because he was not residing outside of his country of nationality, he was not eligible for classification as a refugee.

70. Second, at the time Defendant was granted permanent resident status, he willfully concealed and misrepresented that he had never been a member of or affiliated with any organization or group other than the JNA during his compulsory military service from 1984 to 1985, when in fact Defendant had been a member of the Birac Infantry Brigade and the Zvornik Infantry Brigade of the VRS and, among other assignments, a member of the Zvornik Infantry Brigade's Military Police Company.

71. Third, at the time Defendant was granted permanent resident status, he willfully misrepresented that he had never "engaged in genocide or otherwise ordered, incited, assisted, or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin, or political opinion," when, in fact, Defendant assisted or otherwise participated in the mass killings and persecution of Bosnian Muslims at Srebrenica in July 1995—an incident other courts have found to constitute genocide.

72. Fourth, at the time Defendant was granted permanent resident status, he willfully misrepresented that he had never knowingly committed any crime of moral turpitude when, upon information and belief, Defendant had been an accessory to murder and other atrocities committed in and around Srebrenica in July 1995. In addition, Defendant had provided false testimony under oath concerning his assistance or participation in those events.

73. Defendant's willful omissions and misrepresentations concerning (1) his purported residence in Serbia; (2) his membership in the VRS (and specifically the Brnjica company and,

subsequently, the military police company of the Zvornik Infantry Brigade); (3) his having “engaged in genocide or otherwise ordered, incited, assisted, or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin, or political opinion”; and (4) his having committed any crime of moral turpitude all had the natural tendency to influence the decision-maker to grant his application and were material to his admissibility and eligibility for permanent residence.

74. Because Defendant willfully misrepresented material facts, he was inadmissible at the time he adjusted his status to that of a permanent resident, and therefore he was never lawfully admitted for permanent residence in accordance with the substantive legal requirements to obtain that status.

75. Because Defendant was never lawfully admitted for permanent residence, he was and remains ineligible for naturalization under 8 U.S.C. § 1427(a)(1) and § 1429.

76. Defendant illegally procured his citizenship because at the time he naturalized, he was not lawfully admitted for permanent residence and the Court must therefore revoke his naturalization as provided for in 8 U.S.C. § 1451(a).

COUNT III

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

77. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

78. 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 his Form N-400, and until the time he becomes a naturalized United States citizen. 8 U.S.C. § 1427(a); 8 C.F.R.

§ 316.10(a)(i). Defendant filed his Form N-400 on May 18, 2004. Thus, he was required to establish good moral character from May 19, 1999, the date five years prior to the date on which he filed his Form N-400, until he took the Oath of Allegiance on November 2, 2004 (the “statutory period”).

79. An applicant for naturalization is precluded from establishing the good moral character necessary to naturalize if he committed unlawful acts during the statutory period that adversely reflect on his moral character, and there are no extenuating circumstances. *See* 8 C.F.R. § 316.10(b)(3)(iii).

80. Defendant illegally procured his naturalization because he was precluded from establishing the good moral character necessary to naturalize because he committed unlawful acts during the statutory period that adversely reflect on his moral character.

81. During the statutory period Defendant committed acts that constitute the essential elements of false swearing in an immigration matter, in violation of 18 U.S.C. § 1546(a); making false statements, in violation of 18 U.S.C. § 1001; and perjury, in violation of 18 U.S.C. § 1621.

a. False Swearing in an Immigration Matter: On May 12, 2004 and October 7, 2004, pursuant to 28 U.S.C. § 1746, Defendant did knowingly make, under penalty of perjury, false statements with respect to material facts in a document required by the immigration laws and regulations prescribed thereunder, to wit: a Form N-400, *Application for Naturalization*. As described above, Defendant made false statements in the Form N-400 that he had: never been associated with any organization, fund, foundation, party, club, society, or similar group in the United States or in any other place; never persecuted (either directly or indirectly) any person because of race, religion, national origin, membership in a particular social group, or political opinion; never committed a crime for which he was not arrested; never given false or misleading

information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal; and never lied to any U.S. government official to gain entry or admission into the United States. Defendant knew these statements to be false. All are in violation of 18 U.S.C. § 1546(a).

b. False Statements: On or about May 12, 2004 and October 7, 2004, Defendant did willfully and knowingly make and cause to be made materially false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of a department or agency of the United States. As described above, Defendant made false statements in the Form N-400 that he had: never been associated with any organization, fund, foundation, party, club, society, or similar group in the United States or in any other place; never persecuted (either directly or indirectly) any person because of race, religion, national origin, membership in a particular social group, or political opinion; never committed a crime for which he was not arrested; never given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal; and never lied to any U.S. government official to gain entry or admission into the United States. Defendant knew these statements were false. All are in violation of 18 U.S.C. § 1001.

c. Perjury: On or about May 12, 2004 and October 7, 2004, in a statement under penalty of perjury as permitted under 28 U.S.C. § 1746, Defendant did willfully subscribe as true material matter which he did not believe to be true; to wit: on an Form N-400, *Application for Naturalization* Defendant subscribed as true false statements in the Form N-400. As described above, Defendant made false statements in the Form N-400 that he had: never been associated with any organization, fund, foundation, party, club, society, or similar group in the United States or in any other place; never persecuted (either directly or indirectly) any person because of

race, religion, national origin, membership in a particular social group, or political opinion; never committed a crime for which he was not arrested; never given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal; and never lied to any U.S. government official to gain entry or admission into the United States. These statements, made under penalty of perjury, were not true and Defendant did not believe them to be true. All in violation of 18 U.S.C. § 1621(1).

82. False swearing in an immigration matter, in violation of 18 U.S.C. § 1546(a); making false statements, in violation of 18 U.S.C. § 1001; and perjury, in violation of 18 U.S.C. § 1621, adversely reflect on Defendant's moral character and he cannot establish extenuating circumstances to avoid the regulatory bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii).

83. Because Defendant committed unlawful acts during the statutory period that adversely reflected on his moral character, he was barred under 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10(b)(3)(iii) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

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

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

COUNT IV

ILLEGAL PROCUREMENT OF NATURALIZATION
NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE
(FAILED TO MEET DEFINITION OF REFUGEE)

86. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

87. As noted above, to qualify for naturalization, an applicant must have been lawfully admitted to the United States for permanent residence. *See* 8 U.S.C. §§ 1427(a)(1) and 1429.

88. The term “lawfully” requires compliance with the substantive legal requirements for admission, and not mere procedural regularity. 8 U.S.C. § 1101(a)(20); *Suarez*, 664 F.3d at 661.

89. “The term ‘refugee’ means any person who is outside any country of such person’s nationality . . . who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution . . .” 8 U.S.C. § 1101(a)(42).

90. At the time Defendant was accorded the status of a refugee he claimed to be living in Serbia (Federal Republic of Yugoslavia), and therefore outside the country of his nationality, *i.e.*, Bosnia and Herzegovina.

91. Defendant was not residing in Serbia (Federal Republic of Yugoslavia) during the war in Bosnia.

92. At all times relevant to determination of his eligibility for refugee status, Defendant was residing in what is today known as Republika Srpska, a largely autonomous federal entity within Bosnia and Herzegovina controlled by ethnic Serbs.

93. Defendant therefore failed to meet at least two statutory elements required for eligibility for refugee status: (1) he was not outside his country of nationality; and (2) he was not

unable or unwilling to avail himself of the protection of that country because of persecution or a well-founded fear of persecution.

94. Because Defendant never met the legal definition of a refugee under 8 U.S.C. § 1101(a)(42), he was never substantively eligible to adjust his status from refugee to permanent resident under 8 U.S.C. § 1159(b)(3).

95. Because Defendant was never lawfully admitted for permanent residence in accordance with the substantive requirements for that status, he was and remains ineligible for naturalization under 8 U.S.C. § 1427(a)(1) and § 1429.

96. Defendant illegally procured his citizenship because at the time he naturalized, he was not lawfully admitted for permanent residence and the Court must therefore revoke his naturalization as provided for in 8 U.S.C. § 1451(a).

COUNT V

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

97. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

98. 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 or by willful misrepresentation.

99. As set forth above, Defendant concealed and willfully misrepresented on his Form N-400: his membership in the VRS; his assistance and participation in the mass atrocities; his having given false or misleading information to U.S. government officials while applying for refugee status, permanent residence, and naturalization; his concealment of false statements

made under oath; and his having never been displaced outside of Bosnia and Herzegovina due to persecution.

100. Defendant knew that his misrepresentations and concealment of these matters were false and misleading, and he made such representations willfully.

101. Defendant's willful misrepresentations and omissions were material to determining his eligibility for naturalization. Defendant's false statements and omissions had the natural tendency to influence the decision by USCIS to approve his naturalization application. Indeed, but for Defendant's concealment of material facts and willful misrepresentations, his statutory ineligibility for naturalization would have been disclosed, and USCIS would not have approved his Form N-400 or administered the oath of allegiance.

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

V. 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 the naturalization of the Defendant, and canceling Certificate of Naturalization No. 28556900, effective as of the original date of the order and certificate, November 2, 2004;

(4) Judgment forever restraining and enjoining the Defendant from claiming any rights, privileges, benefits, or advantages under any document which evidences United States citizenship obtained as a result of his March 26, 2004 naturalization;

(5) Judgment requiring Defendant, within ten days of judgment, to surrender and deliver his Certificate of Naturalization, No. 28556900, and any copies thereof in his possession, and to make good faith efforts to recover and 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, within ten days of judgment, to surrender and deliver any other indicia of United States citizenship (including, but not limited to, any United States passport, voter identification card, and other voting documents) 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; and

(7) Judgment granting the United States such other relief as may be lawful and proper.

Dated: December 20, 2018

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Respectfully submitted,

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