UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	No. 17-cv-295
Plaintiff,	)	
v.	)	
IYMAN FARIS, previously known as MOHAMMAD RAUF,	)	**COMPLAINT TO REVOKE NATURALIZATION**
Defendant.	)	

I. PRELIMINARY STATEMENT

1. Pursuant to 8 U.S.C. § 1451(a), the United States seeks to revoke and set aside the order admitting Defendant Iyman Faris, previously known as Mohammad Rauf, to United States citizenship and to cancel his certificate of naturalization. Defendant (a) illegally procured, and (b) procured by concealment of a material fact and by willful misrepresentation, the order admitting him to United States citizenship and his certificate of naturalization.

II. JURISDICTION AND VENUE

2. This honorable Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331, as this case arises under federal law, viz. 8 U.S.C. § 1451(a), and pursuant to 28 U.S.C. § 1345, as the plaintiff is the United States of America.

3. Venue lies in this honorable Court pursuant to 8 U.S.C. § 1451(a), as Defendant currently resides, as that term is defined in the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(33), in this judicial district, to wit: at the United States Penitentiary at Marion, Illinois.

4. Attached hereto as Exhibit A is the affidavit of Martin Lawson, a special agent of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Homeland Security Investigations, setting forth good cause for this action.

III. THE PARTIES

5. Plaintiff is the United States of America.

6. Defendant, Mr. Iyman Faris, was born in Karachi, Pakistan in 1969, and given the name of Mohammad Rauf. He became a United States citizen by naturalization on December 16, 1999, and was issued a certificate of naturalization bearing serial number 23952581. His last known residence is the United States Penitentiary at Marion, Illinois. At his naturalization, Defendant's name was changed from Mohammad Rauf to Iyman Faris.

IV. DEFENDANT'S IMMIGRATION HISTORY

7. In or about March 1994, Defendant entered the United States at New York, New York, using a passport and visa belonging to another person, to wit: Iyman al-Ibrahim al-Ali, whom Defendant had previously met in Bosnia.

8. On or about July 18, 1994, Defendant filed a Form I-589, Request for Asylum (hereinafter "I-589 asylum request") with the former Immigration and Naturalization Service ("INS").[1] In that application, Defendant stated, *inter alia*, that: (a) he had departed the country of his nationality, i.e. Pakistan, on May 6, 1994; (b) he had entered the United States on May 6, 1994 at Buffalo, New York; and (c) after leaving his home country, he had not travelled through or resided in any other country before entering the United States. All of those statements were false.

[1] As of March 1, 2003, the INS ceased to exist and its functions were transferred to various agencies within the Department of Homeland Security. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 441, 451, 471, 116 Stat. 2135, 2192, 2195, 2205 (2002).

9. On or about September 9, 1995, while Defendant's I-589 asylum request was pending with INS, Defendant married a United States citizen, Ms. Geneva M. Bowling.

10. On or about December 18, 1995, Defendant's United States citizen wife filed with INS a Petition for Alien Relative, Form I-130 ("I-130 petition"), seeking to have Defendant recognized as an immediate family member of a U.S. citizen. Contemporaneously, Defendant filed with INS an Application to Register Permanent Residence or Adjust Status, Form I-485 (hereinafter "adjustment-of-status application").

11. In his adjustment-of-status application, Defendant stated: (1) he had last entered the United States from Canada without being inspected by a U.S. immigration officer; and (2) he had never sought to procure, or procured, a visa, other documentation, entry into the United States, or any other immigration benefit by fraud or willful misrepresentation. Both of those statements were false.

12. On or about February 20, 1996, an INS immigration officer interviewed Defendant in connection with his adjustment-of-status application. At that interview, Defendant falsely testified under oath that he had last entered the United States from Canada without inspection by a U.S. immigration officer.

13. On or about March 20, 1996, in reliance on, *inter alia*, the information provided by Defendant in his adjustment-of-status application, INS approved the I-130 petition and I-485 adjustment-of-status application, and granted Defendant permanent resident status.

14. On or about January 14, 1999, Defendant applied for naturalization by submitting to INS a completed Form N-400 (hereinafter "naturalization application"). In signing and submitting his naturalization application, Defendant certified, under penalty of perjury, that the

information contained in the application was true and correct. A copy of Defendant's Form N-400 naturalization application is attached hereto as Exhibit B.

15. In his naturalization application, Defendant stated, *inter alia*, that (a) he had not ever given false testimony for the purpose of obtaining an immigration benefit, and (b) he had not ever knowingly committed any crime for which he had not been arrested. Both answers were false.

16. In addition, at Part 9 of his naturalization application, Defendant was asked to "[l]ist your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place. Include any military service in this part." In response, Defendant stated only that he was a member of the Mohajir Qaumi Movement political party in Pakistan. Defendant thereby concealed: (a) his participation in military combat in Kashmir in the 1980s, (b) his attendance and training at the Unghar Adda para-military training camp in Afghanistan and his subsequent participation in military combat in Afghanistan during the late 1980s; and (c) his affiliation with Harkat-ul-Jihadi al-Islami ("HuJI"), meaning "Movement of Islamic Holy War." All of the information Defendant concealed in responding to this question on his naturalization application was material.

17. On or about September 16, 1999, an INS immigration officer examined Defendant under oath in connection with this naturalization application. At that examination, consistent with the false answers given on his naturalization application, Defendant falsely testified, for the purpose of obtain an immigration benefit, *viz.* naturalization, that (a) he had not ever given false testimony for the purpose of obtaining an immigration benefit, and (b) he had not ever

knowingly committed any crime for which he had not been arrested. Those statements were false in the following particulars:

a. Defendant had, in fact, given false testimony during his interview with INS in connection with his adjustment-of-status application when he told the immigration officer, under oath, that he had last entered the United States from Canada without inspection, when in fact he had entered the United States at New York, N.Y., using another person's passport and visa.

b. Defendant had knowingly committed the following crimes for which he had not been arrested:

(1) Willfully and knowingly using a passport issued for the use of another to enter the United States in March 1994, in violation of 18 U.S.C. § 1544; and

(2) Knowingly possessing an identification document (other than one issued lawfully for the use of the possessor) with the intent such document be used to defraud the United States, and by knowingly possessing and using, without lawful authority, a means of identification of another person with the intent to commit an unlawful activity that constituted a violation of federal law, to wit: violation of 8 U.S.C. § 1185(a)(5), in violation of 18 U.S.C. § 1028.

18. INS approved Defendant's naturalization application on or about September 16, 1999, and Defendant took the oath of allegiance, and became a United States citizen, on December 16, 1999. In connection with his naturalization, Defendant changed his name from Mohammad Rauf to Iyman Faris.

V. POST-NATURALIZATION EVENTS

19. In April 2003, Defendant entered into a plea agreement with the United States in the case of *United States v. Iyman Faris*, No. 1:03-cr-00187-001, then pending in the United States

District Court for the Eastern District of Virginia. As part of that plea agreement, Defendant admitted the following facts:

a. In late 2000, while visiting Pakistan, Defendant travelled to Afghanistan with a long-time friend. While in Afghanistan, Defendant met both Usama bin Laden, the leader of al Qaeda, and a senior al Qaeda operational leader, at an al Qaeda training camp.

b. At the request of this senior al Qaeda operational leader, Defendant subsequently researched information about ultra-light aircraft and knowingly provided that information to al Qaeda.

c. In late December 2001, Defendant visited a travel agency in Pakistan, while in disguise, and sought to obtain extensions on airline tickets for various other people, knowing that the tickets were for use by al Qaeda members.

d. In early 2002, Defendant again met the senior al Qaeda operational leader referred to in subparagraphs a. and b. above who asked Defendant to procure the equipment necessary to destroy a bridge in New York City, New York, and to derail a train. In response to this request, Defendant researched the operation of "gas cutters," also known as "blow torches," for possible use in severing bridge suspension cables, and travelled to the target bridge in late 2002 to examine the bridge. Determining that the plot was unlikely to succeed, Defendant then communicated his assessment by coded message to the senior al Qaeda operational leader.

20. On October 8, 1999, pursuant to Section 219 of the Immigration and Nationality Act (''INA''), 8 U.S.C. § 1189, the United States Secretary of State designated al Qaeda a foreign terrorist organization. 64 Fed. Reg. 55112 (Oct. 8, 1999). Al Qaeda has remained a designated foreign terrorist organization since that time.

21. At the time of Defendant's affiliation with al Qaeda, al Qaeda was an organization that advocated or taught: (a) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; (b) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer of the United States Government and of other organized governments because of their official character; (c) the unlawful damage, injury, or destruction of property; and (d) sabotage.

22. On May 1, 2003, Defendant pled guilty in the United States District Court for the Eastern District of Virginia to conspiring to provide, and providing, material support to al Qaeda, in violation of 18 U.S.C. §§ 371 & 2339B. A copy of the judgment of conviction is attached hereto as Exhibit C. A copy of the plea agreement between the Defendant and the United States, together with the incorporated statement of facts providing the factual basis for the plea, is attached hereto as Exhibit D.

VI. THE DENATURALIZATION STATUTE

Congressionally Imposed Prerequisites to the Acquisition of Citizenship

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

24. Congress has provided that an applicant for naturalization must demonstrate that he or she has been lawfully admitted to the United States for permanent residence and subsequently

resided in this country for at least three years prior to the date of application, if the applicant is applying to naturalize as the spouse of a U.S. citizen. 8 U.S.C. §§ 1429, 1430.

25. Congress has further 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 in the case of an applicant who is applying as the spouse of a U.S. citizen begins three years before the date the applicant files the application for naturalization, and continues until the applicant takes the oath of allegiance to become a United States citizen. *Id.*; 8 C.F.R. § 316.10(a)(1).

26. As a matter of law, an applicant lacks the good moral character required to naturalize if, during the statutory period, he gives false testimony for the purpose of obtaining an immigration benefit. 8 U.S.C. § 1101(f)(6).

The Denaturalization Statute

27. Recognizing that there are situations in which an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or willfully misrepresenting facts that are material to the decision whether to grant naturalization, Congress enacted 8 U.S.C. § 1451.

28. 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 willful misrepresentation.

29. 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.

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

31. Moreover, pursuant to 8 U.S.C. § 1451(c), if, within five years of naturalizing, a person becomes a member of, or affiliated with, any organization that membership in or affiliation with at the time of naturalization would have precluded such person from naturalization under the provisions of 8 U.S.C. § 1424, then that membership or affiliation shall be considered *prima facie* evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation. 8 U.S.C. § 1451(c).

VII. COUNT ONE

Naturalization Procured by Concealment of Material Facts and Willful Misrepresentation (Affiliation with al Qaeda Within Five Years After Naturalization)

32. The United States incorporates by reference paragraphs 1 through 31 of this complaint.

33. As evidenced by Defendant's 2003 guilty plea and conviction for conspiring to provide, and providing, material support to al Qaeda, Defendant affiliated with al Qaeda within five years following his naturalization.

34. Al Qaeda is an organization that membership in or affiliation with at the time of naturalization would have precluded an alien from naturalization under the provisions of 8 U.S.C. § 1424.

35. Consequently, Defendant's affiliation with al Qaeda within five years after his naturalization is, pursuant to 8 U.S.C. § 1451(c), *prima facie* evidence he was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of his naturalization.

36. In the absence of countervailing evidence, the existence of which the United States is unaware, Defendant's affiliation with al Qaeda is sufficient to authorize the revocation and setting aside of the order admitting Defendant to citizenship, and the cancellation of his certificate of naturalization, as having been obtained by concealment of a material fact or by willful misrepresentation.

VIII. COUNT TWO

Naturalization Procured by Concealment of Material Facts and Willful Misrepresentation (Concealment of Affiliation with Extremist Groups in Pakistan, Afghanistan, and Bosnia)

37. The United States incorporates by reference paragraphs 1 through 31 of this complaint.

38. Defendant concealed on his naturalization application, and in his examination in connection with his naturalization application, that he had been affiliated with: (a) an extremist group with which he had engaged in combat in Kashmir; (b) an extremist group with which he had undertaken military training at the Unghar Adda training camp in Afghanistan, and with

which he had engaged in combat in Afghanistan in the late 1980s; and (c) Harkat-ul-Jihadi al-Islami, with which he had been affiliated both in Pakistan, and in Bosnia during the 1990s.

39. Defendant willfully concealed his affiliations with these organizations.

40. Defendant's affiliations with these organizations were material in that they were predictably capable of affecting the official decision on Defendant's naturalization application. *See Kungys v. United States*, 485 U.S. 759, 771 (1988).

41. By his willful concealment of these material facts, Defendant procured his naturalization.

IX. COUNT THREE

Illegal Procurement of United States Citizenship (Not Lawfully Admitted for Permanent Residence)

42. The United States incorporates by reference paragraphs 1 through 31 of this complaint.

43. As a condition precedent to naturalization, an alien must have been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of the Immigration and Nationality Act ("INA"). 8 U.S.C. §§ 1427(a) & 1429.

44. To be lawfully admitted for permanent residence, an alien must have been admissible to the United States as an immigrant pursuant to 8 U.S.C. § 1182. 8 U.S.C. § 1255(a).

Inadmissibility Due to Passport Fraud

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

46. At the time the United States granted Defendant permanent resident status, Defendant was inadmissible because he had procured his admission into the United States by fraud, using another person's passport and visa, to wit: the passport and visa of Iyman al-Ibrahim al-Ali, and willfully misrepresenting to U.S. immigration officials at the port-of-entry that he was Iyman al-Ibramin al-Ali.

47. Further, at the time the United States granted Defendants permanent resident status, Defendant was inadmissible because he had sought to procure asylum in the United States by fraud and willful misrepresentation of material facts, to wit: falsely claiming on his I-589 asylum application that he had entered the United States at Buffalo, New York on May 6, 1994, directly from Pakistan, without having travelled through or resided in any other country before entering the United States.

48. Because Defendant was inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(C)(i), he was not lawfully admitted for permanent residence.

Inadmissibility Due to Engaging in Terrorist Activities

49. An alien is inadmissible to the United States if the alien has engaged in terrorist activity, as defined by the INA. 8 U.S.C. § 1182(a)(3)(B)(i)(I). To "engage in terrorist activity" was defined in 1995-96 as, *inter alia*, "to commit an act that the actor knows, or reasonably should know, affords material support to any individual, organization or government in conducting a terrorist activity at any time, including . . .[t]he providing of any type of material support . . . to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity." 8 U.S.C. § 1182(a)(3)(B)(iii) (1994). "Terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which if committed in the United States, would be unlawful under the laws of the United States or any

State), and which involves . . . the use of any . . . explosive or firearm (other than for mere personal monetary gain) with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property." 8 U.S.C. § 1182(a)(3)(B)(ii) (1994).

50. Defendant's attendance at the Unghar Adda training camp, his participation in hostilities in Kashmir and Afghanistan, and his involvement with Harkat ul-Jihadi al-Islami constituted material support of the sort described in 8 U.S.C. § 1182(a)(3)(B), and rendered him inadmissible to the United States.

51. Because Defendant was inadmissible pursuant to 8 U.S.C. § 1182(a)(3)(B), he was ineligible to adjust his status, and he was not *lawfully* admitted for permanent residence.

Not Lawfully Admitted Due to Material Misrepresentations on Adjustment-of-Status Application

52. Further, Defendant's lawful permanent resident status was not in substantive compliance with the immigration laws—and therefore he was not *lawfully* admitted for permanent residence—because, in his adjustment-of-status application, which he certified under penalty of perjury to be true and correct, he had materially misrepresented that he had never sought to procure, or procured, a visa, other document, admission to the United States, or other immigration benefit by fraud or willful misrepresentation, which statement was false in that (i) Defendant had previously procured entry into the United States by fraudulently using another person's passport and visa, and (ii) Defendant had sought to procure asylum by providing materially false information on his Form I-589, Request for Asylum. *See Injeti v. U.S. Citiz. & Immig. Svcs.*, 737 F.3d 311, 318 (4th Cir. 2013) (where adjustment-of-status application contained a material misrepresentation, and thus was not "true and correct," the applicant did not satisfy the legal requirements for adjusting her status, regardless of whether misrepresentation was willful) (citing 8 C.F.R. § 103.2(a)(2)).

53. Because a person may not be naturalized as a United States citizen unless that person has previously been *lawfully* admitted for permanent residence in accordance with the applicable provisions of the INA, Defendant was not eligible to naturalize, and he therefore illegally procured his naturalization.

X. COUNT FOUR

Illegal Procurement of United States Citizenship (Lack of Good Moral Character)

54 The United States incorporates by reference paragraphs 1 through 31 of this complaint.

55. As detailed above, Defendant testified, under oath, at his interview on his adjustment-of-status application, on February 20, 1996, that he had last entered the United States from Canada without inspection by a U.S. immigration officer, and had never sought to procure, or procured, a visa, other documentation, admission to the United States, or other immigration benefit by fraud or willful misrepresentation of a material fact. Similarly, at his examination on his naturalization application, on September 16, 1999, he testified that he (a) had never given false testimony for the purpose of obtaining an immigration benefit, and (b) had never knowingly committed any crime for which he had not been arrested.

56. Defendant's testimony at his adjustment-of-status interview was false in that he had in fact procured his admission to the United States at New York, N.Y., by fraudulently using another person's passport and visa. Defendant's testimony at his naturalization examination was false in that he had, in fact, given false testimony for the purpose of obtaining an immigration benefit during his interview with INS in connection with his adjustment-of-status application when he told the immigration officer, under oath, that he had last entered the United States from

Canada without inspection, when in fact he had entered the United States at New York, N.Y., using another person's passport and visa.

57. Further, Defendant's testimony at his naturalization examination was false in that Defendant had knowingly committed the following crimes for which he had not been arrested: (1) Willfully and knowingly using a passport issued for the use of another to enter the United States in March 1994, in violation of 18 U.S.C. § 1544; and (2) Knowingly possessing an identification document (other than one issued lawfully for the use of the possessor) with the intent such document be used to defraud the United States, and by knowingly possessing and using, without lawful authority, a means of identification of another person with the intent to commit an unlawful activity that constituted a violation of federal law, to wit: violation of 8 U.S.C. § 1185(a)(5), in violation of 18 U.S.C. § 1028.

58. Defendant testified falsely at his adjustment-of-status interview and at his naturalization examination for the purpose of obtaining an immigration benefit, *viz*. naturalization.

59. Because Defendant testified falsely for the purpose of obtaining an immigration benefit during the period for which he was required to demonstrate good moral character, as a matter of law, he lacked the good moral character required to naturalize, and his naturalization was illegally procured. *See* 8 U.S.C. § 1101(f)(6).

XI. PRAYER FOR RELIEF

WHEREFORE, the United States respectfully prays this honorable Court:

1. To declare Defendant procured his citizenship illegally;

2. To declare Defendant procured his citizenship by concealment and willful misrepresentation of material facts;

3. To revoke and set aside the order admitting Defendant to United States citizenship, and to cancel Certificate of Naturalization number 23952581 issued to Defendant;

4. To forever restrain and enjoin Defendant from claiming any rights, privileges, benefits, or advantages under any document evidencing United States citizenship obtained as a result of Defendant's naturalization;

5. To order Defendant to surrender and deliver to the Attorney General (or his designated representative, including undersigned counsel), within ten days of the entry of judgment, his original Certificate of Naturalization No. 23952581 and any other indicia of U.S. citizenship (including any U.S. passports, voter registration cards, and any other voting document issued to him), and all copies thereof in his possession, and to make good faith efforts to recover and surrender any copies thereof he knows are in the possession of others; and,

6. Any other lawful and proper relief.

Dated: March 20, 2017

Respectfully submitted,

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