

**ENTERED**

June 27, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**JOSE ARIZMENDI,**

**Defendant.**

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**No. 4:15-CV-00454**

**ORDER**

Pending before the Court is Plaintiff’s Motion for Judgment (**Instrument No. 23**) under Federal Rule of Civil Procedure 12(c).

Defendant Jose Arizmendi (“Defendant”) was indicted by a grand jury for sexual assault against a minor on September 7, 1995. (Instrument No. 23 at 3). On April 15, 1996, the State of Texas entered a Deferment Adjudication of Guilty Plea for aggravated sexual assault of a child. (Instrument No. 23-6 at 1). Defendant submitted a naturalization application to Immigration and Nationality Services (“INS”) on April 20, 1996, answering “No” to the question 15(b) in Part 7, which reads, “[H]ave you ever been arrested, cited, charged, indicted, convicted, fined, or imprisoned for breaking or violating any law or ordinance excluding traffic regulations?” (Instrument No. 23-3 at 4). On October 10, 1996, Defendant answered “No” to the same question during his naturalization interview. *Id.* Relying on this information, the INS official recommended Defendant for naturalization. (Instrument No. 23-2 at 1). On November 26, 1996, Defendant took the oath of allegiance as a United States citizen and received a Certificate of Naturalization, N. 22712898. *Id.*

In order to revoke citizenship, the government must show by clear, unequivocal, and convincing evidence that an alien illegally procured citizenship by failing to meet all requirements for citizenship at the time of naturalization or that the alien has misrepresented and concealed information to obtain citizenship. 8 U.S.C. § 1451; *Federenko v. United States*, 449 U.S. 490, 505 (1981); *Kungys v. United States*, 485 U.S. 759, 768 (1988). In order to show that an alien illegally procured naturalization through misrepresentation or concealment, the government must show “the naturalized citizen must have misrepresented or concealed some fact, the misrepresentation or concealment must have been willful, the fact must have been material, and the naturalized citizen must have procured citizenship as a result of the misrepresentation or concealment.” 485 U.S. at 767; *Maslenjak v. United States*, No. 16–309, 2017 WL 2674154, at \*3 (U.S. June 22, 2017).

Here, Defendant was convicted of an aggravated felony before he was naturalized, which would have precluded him from establishing the requisite good moral character for naturalization. *See* 8 U.S.C. §§ 1101(f)(8) and 1427(a)(3). Because Defendant concealed the fact that he did not meet the requirements for naturalization at the time of the application, interview, and oath of allegiance, he illegally procured his naturalization. Furthermore, Defendant willfully misrepresented his criminal history and concealed his indictment and guilty plea while under oath before an immigration official. Defendant’s aggravated sexual assault indictment and conviction were material elements to his naturalization application, which if known, would have barred Defendant’s citizenship. 8 U.S.C. § 1427; 8 U.S.C. § 1101(f)(6). Thus, the pleadings and documents referenced in the proceedings show by clear, unequivocal, and convincing evidence that Defendant Arizmendi illegally procured his citizenship.

Based on the foregoing analysis, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Judgment is **GRANTED**. (**Instrument No. 23**).

The Clerk shall enter this Order and provide a copy to all parties.

**SIGNED** on this the 27<sup>th</sup> day of June, 2017, at Houston, Texas.

  
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**VANESSA D. GILMORE**  
**UNITED STATES DISTRICT JUDGE**