

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:17-CV-02658-RGK-SS Date August 21, 2017

Title *United States v. Araceli Martinez*

Present: The Honorable R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE

Sharon L. Williams (Not present) Not Reported N/A

Deputy Clerk Court Reporter / Recorder Tape No.

Attorneys Present for Plaintiff: Attorneys Present for Defendant:

Not Present Not Present

Proceedings: (IN CHAMBERS) Order Re: Plaintiff's Motion for Judgment on the Pleadings (DE 9)

I. INTRODUCTION

Defendant Araceli Martinez, also known as Maria Araceli Ramos de Martinez, received her citizenship in April 2012. On April 7, 2017, the Government brought a denaturalization action, alleging that Martinez procured her citizenship illegally (Counts I–III) or by willfully misrepresenting a material fact (Count IV). Martinez has not filed an answer despite being properly served with the summons and complaint. The Government now seeks a Rule 12(c) judgment on the pleadings under Counts I, II, and IV of the Complaint. The deadline to file a response passed on June 19, 2017, with no response from Martinez. For the following reasons, the Court **GRANTS** the Government's Motion for Judgment on the Pleadings.

II. FACTUAL BACKGROUND

The following facts are alleged in the Complaint and its attached exhibits. (Compl., ECF No. 1.)

Between June 2011 and March 2012, Martinez engaged in a scheme in which she impersonated a United States immigration officer. Martinez falsely represented that undocumented immigrants could hire her to assist them in obtaining legal status. Martinez accepted thousands of dollars in compensation from undocumented immigrants without ever submitting any paperwork on their behalf.

On or about July 8, 2011, while engaged in this scheme, Martinez filed an Application for Naturalization ("the Application"). In the Application, Martinez checked "No" in response to the question, "Have you ever committed a crime or offense for which you were **not** arrested?" While under oath during an interview with U.S. Citizenship and Immigration Services ("USCIS"), Martinez again stated that she had never committed a crime or offense for which she was not arrested. Based on the Application and interview, USCIS approved Martinez's application.

Martinez received a Notice of Naturalization Oath Ceremony, which asked whether Martinez had knowingly committed any crime for which she had not been arrested since her interview. Again,

UNITED STATES DISTRICT COURT
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Case No.	2:17-CV-02658-RGK-SS	Date	August 21, 2017
Title	<i>United States v. Araceli Martinez</i>		

Martinez answered “No.” On April 17, 2012, Martinez took the Oath of Allegiance to become a United States citizen and received her Certificate of Naturalization.

About two months later, the Los Angeles Sheriff’s Department arrested Martinez based on her scheme. Martinez pleaded guilty to Counts 1–4 of a felony indictment for Obtaining Money, Labor or Property by False Pretense in violation of Cal. Penal Code § 532(a). The conduct underlying Counts 1–4 occurred in August 2011, after Martinez filed the Application but before her interview with USCIS.

On April 7, 2017, the United States filed the underlying denaturalization action based on Martinez’s pre-naturalization conduct and resulting conviction.

III. JUDICIAL STANDARD

A Rule 12(c) motion for judgment on the pleadings is “functionally identical” to a Rule 12(b)(6) motion to dismiss for failure to state a claim; the only significant difference is that a Rule 12(c) motion is properly brought “after the pleadings are closed—but early enough not to delay trial.” Fed. R. Civ. P. 12(c); *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). The Court may grant a Rule 12(c) motion for judgment on the pleadings only if, taking all the allegations in the pleading as true, the moving party is entitled to judgment as a matter of law. *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1550 (9th Cir. 1989).

Generally, the Court will not consider evidence or documents beyond the pleadings when ruling on a Rule 12(c) motion. Fed. R. Civ. P. 12(d); *Hal Roach Studios, Inc.*, 896 F.2d at 1550. Material properly submitted as part of the complaint, including exhibits attached to the complaint, may be considered. *Id.* at 1555 n.19 (applying the identical motion to dismiss standard); Fed. R. Civ. P. 10(c) (“A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.”).

In support of its complaint, the Government submitted four exhibits, including certified records of the felony complaint against Martinez and her guilty plea. Because these exhibits were submitted as part of the parties’ pleadings, the Court will consider them in ruling on the Government’s motion.

IV. DISCUSSION

The Supreme Court has recognized that “the right to acquire American citizenship is a precious one and that . . . its loss can have severe and unsettling consequences.” *Fedorenko v. United States*, 449 U.S. 490, 505 (1981). Therefore, “[i]n a denaturalization proceeding, the government bears the heavy burden of providing clear, unequivocal, and convincing evidence that citizenship should be revoked.” *United States v. Arango*, 670 F.3d 988, 992 (9th Cir. 2012) (internal quotation marks and citations omitted); *see also Schneiderman v. United States*, 320 U.S. 118, 122 (1943). If the Government meets its burden in showing grounds for denaturalization, the court “has no discretion to excuse the conduct.” *Fedorenko*, 449 U.S. at 517.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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Case No.	2:17-CV-02658-RGK-SS	Date	August 21, 2017
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The denaturalization statute permits the government to revoke citizenship if naturalization was (1) illegally procured; or (2) procured by concealment of a material fact or by willful misrepresentation. 8 U.S.C. § 1451(a). The government argues that it is entitled to judgment on the pleadings under both grounds: illegal procurement based on lack of good moral character (Counts I and II) and procurement by willful misrepresentation (Count IV).

A. Counts I and II: Illegal Procurement

Naturalization was illegally procured if the applicant did not meet any of the congressionally imposed requirements for citizenship. *Fedorenko*, 449 U.S. at 506. In order to lawfully obtain U.S. citizenship, a person must be of good moral character for the five years immediately preceding the date of filing her citizenship application until the date the applicant takes the oath of allegiance. 8 U.S.C. § 1427(a). Here, Martinez filed the Application on July 8, 2011 and obtained her citizenship on April 17, 2012. Thus, the statutory period began July 8, 2006 and ended April 17, 2012.

The Government argues that Martinez lacked good moral character during the statutory period under 8 U.S.C. § 1101(f)(3) and 8 C.F.R. § 316(b)(3)(iii).

1. Count I: Illegal Procurement Under section 1101(f)(3)

A person lacks good moral character if she falls within any of the categories enumerated in 8 U.S.C. § 1101(f). Under section 1101(f)(3), a person convicted of a crime involving moral turpitude lacks good moral character and is ineligible for citizenship. 8 U.S.C. § 1101(f)(3); 8 U.S.C. § 1182(a)(2)(A)(i).

At issue is whether section 1101(f)(3) applies only where the conviction itself occurs during the statutory period or whether it also applies where, as is the case here, the crime was committed during the statutory period. The Seventh Circuit has held that the fact that the relevant conviction occurs after naturalization is of no consequence; section 1101(f) requires only that the underlying conduct occurred during the statutory period. *United States v. Suarez*, 664 F.3d 655, 659–60 (7th Cir. 2011). The Ninth Circuit, however, has avoided the question and analyzed cases involving post-naturalization convictions under the separate catch-all provision in section 1101(f) and the related regulation 8 C.F.R. § 316.10(b)(3). *See United States v. Teng Jiao Zhou*, 815 F.3d 639, 643–44 (9th Cir. 2016); *id.* at 644 n.4 (declining to address the categories listed in 8 U.S.C. §§1101(f)(1)–(9)).

Because, as explained below, Count II provides sufficient grounds for finding illegal procurement, the Court will not reach the question of whether section 1101(f)(3) applies to post-naturalization convictions for pre-naturalization conduct.

2. Count II: Illegal Procurement Under 8 C.F.R. § 316.10(b)(3)

Under section 1101(f)'s catch-all provision, a finding that a person lacks good moral character is not limited to the enumerated categories. Government regulation 8 C.F.R. § 316.10 provides guidance on making moral character determinations pursuant to the catch-all provision and is entitled to *Chevron* deference. *United States v. Teng Jiao Zhou*, 815 F.3d 639, 643 (9th Cir. 2016). Under 8 C.F.R. §

UNITED STATES DISTRICT COURT
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316.10(b)(3)(iii), an applicant lacks good moral character if the applicant committed unlawful acts during the statutory period that adversely reflect upon the applicant’s moral character. A conviction is not necessary. *Teng Jiao Zhou*, 815 F.3d at 643. Crimes involving moral turpitude are unlawful acts that adversely reflect on one’s moral character. *Id.* at 642.

In *United States v. Teng Jiao Zhou*, the Ninth Circuit affirmed the Central District’s order granting the government’s motion for judgment on the pleadings under circumstances similar to the present case. *Teng Jiao Zhou*, 815 F.3d at 643. Zhou’s pre-naturalization conduct formed the basis for his post-naturalization arrest, indictment, and conviction for first degree robbery. *Id.* Because the robbery was a crime of moral turpitude committed during the statutory period, the Ninth Circuit affirmed that Zhou committed an unlawful act that reflected adversely on his moral character under 8 C.F.R. § 316.10(b)(3)(iii). *Id.*

Martinez’s commission of Obtaining Money, Labor or Property by False Pretense involved a fraudulent representation that defrauded other persons of money. *See* Cal. Penal Code § 532(a). Because the crime involved fraud, it is a crime of moral turpitude. *See Jordan v. De George*, 341 U.S. 223, 229 (1051) (holding that crimes involving fraud are categorically recognized as crimes of moral turpitude); *Planes v. Holder*, 652 F.3d 991, 997–98 (9th Cir. 2011) (“[F]raud crimes are categorically crimes involving moral turpitude, simply by virtue of their fraudulent nature.”). Martinez committed the underlying acts in August 2011, during the statutory period. Thus, Martinez committed an unlawful act during the statutory period that reflected adversely on her moral character under C.F.R. § 316.10(b)(3)(iii). As a result, the Court must **GRANT** the Government’s Motion for Judgment on the Pleadings.

B. Count IV: Procurement by Willful Misrepresentation

Because the Government met its burden of showing Martinez’s citizenship was illegally procured, the Court need not reach the Government’s arguments under Count IV.

V. CONCLUSION

For the foregoing reasons, the Government’s Motion for Judgment on the Pleadings is **GRANTED**. The Court will issue a judgment of denaturalization in accordance with this order.

IT IS SO ORDERED.

Initials of Preparer