



Stop Citizenship Abuse and Misrepresentation (SCAM) Act

Naturalization is a long-standing, time-honored, and fundamentally American tradition. Becoming a citizen means not only gaining access to various social, economic, and political benefits, but also—and more importantly—becoming an active member of our society while accepting sacred duties and obligations to the United States and one's fellow Americans.

In recent years, however, some naturalized citizens have eschewed those sacred duties and obligations and instead treated their new citizenship status as a purely administrative benefit they can leverage for their own personal gain. Several recently naturalized citizens have engaged in egregious fraud against the American people by defrauding federal, state, and local government welfare and assistance programs. For example, in the Feeding Our Future fraud scandal in Minnesota, more than 70 defendants, including many naturalized citizens, collectively defrauded a federally-funded children's nutrition program out of at least \$250 million—much of which was either spent on unrecoverable luxury expenses like vacations or transferred overseas, often through remittances to the countries from which the naturalized citizens emigrated. Many similar welfare and assistance fraud schemes have been exposed across the country. In addition, some recently naturalized citizens have admitted to joining transnational drug cartels designated as foreign terrorist organizations. Others have been convicted of espionage.

But applicants for United States citizenship must demonstrate at the time of naturalization that they are (1) persons of good moral character, (2) attached to the principles of the Constitution of the United States, and (3) well-disposed to the good order and happiness of the United States.

We must protect and restore the institution of American citizenship. Most naturalized citizens truly embrace United States citizenship. But a recalcitrant minority of naturalized citizens instead exploits American generosity through destructive behavior like defrauding welfare programs, affiliating with foreign terrorist organizations and drug cartels, or committing aggravated felonies or espionage. In doing so, they evidence that they are not, and were not at the time of naturalization, persons of good moral character, attached to the principles of the Constitution, and well-disposed to the happiness and good order of the United States. In other words, those individuals have proven that they were never fit for naturalization in the first instance because they did not meet the statutory requirements for naturalization, meaning their citizenship was illegally procured.

The “Stop Citizenship Abuse and Misrepresentation Act” (SCAM Act) restores integrity to the naturalization process by clarifying the evidence through which the government can prove that a person did not meet the statutory requirements at the time of naturalization to include:

- Committing an act as part of a substantial fraud against a federal, state, or local government welfare or assistance program within 10 years of naturalization;
- Affiliating with a designated foreign terrorist organization within 10 years of naturalization; or
- Committing an act as part of an aggravated felony or espionage within 10 years of naturalization.

Background on the Naturalization and Denaturalization Processes

Applicants for naturalization must demonstrate, amongst other requirements, the three substantive requirements that they are (1) persons of good moral character, (2) attached to the principles of the Constitution of the United States, and (3) well-disposed to the good order and happiness of the United States. *See* 8 U.S.C. § 1427(a). There must be “strict compliance” with those requirements, as “Congress alone has the constitutional authority to prescribe rules for naturalization” and “[n]o alien has the slightest right to naturalization unless all statutory requirements are complied with.” *Fedorenko v. United States*, 449 U.S. 490, 506 (1981).

Federal law does not comprehensively define “good moral character”; instead, it specifies a non-exhaustive list of grounds that preclude a finding of good moral character. *See* 8 U.S.C. § 1101(f); *see also* 8 C.F.R. § 316.10(a)(2). For example, a person who commits an “aggravated felony,” whose “income is derived principally from illegal gambling activities,” or is “a habitual drunkard” cannot be “regarded as, or found to be, a person of good moral character” for naturalization purposes. 8 U.S.C. §§ 1101(f)(1), (3), (4), (8).

After providing the framework for naturalization, *see* 8 U.S.C. §§ 1421–1450, the Immigration and Nationality Act (INA) provides the requirements and process for denaturalization (*i.e.*, revoking the grant of citizenship), *id.* § 1451.

Indeed, “[n]o alien has the slightest right to naturalization unless all statutory requirements are complied with; and every certificate of citizenship must be treated as granted upon condition that the government may challenge it . . . and demand its cancelation unless issued in accordance with such requirements. If procured when prescribed qualifications have no existence in fact, it is illegally procured” *United States v. Ginsberg*, 243 U.S. 472, 475 (1917).

Denaturalization is typically a civil proceeding brought by the defendant’s local U.S. Attorney’s office. *See* 8 U.S.C. § 1451(a). To denaturalize someone, the government must prove the person procured citizenship “illegally” or through “concealment of a material fact or by willful misrepresentation.” *Id.* And that proof must be “clear, unequivocal, and convincing” evidence of illegal procurement. *Fedorenko*, 449 U.S. at 505.

Because it is easy for an unscrupulous applicant to illegally procure citizenship by concealing or misrepresenting whether he or she meets the three substantive requirements, the INA provides that certain post-naturalization actions that would have precluded naturalization in the first place—such as joining certain anarchist or totalitarian groups—if they had been taken before naturalization can serve as *prima facie* and sufficient evidence in a denaturalization proceeding that the person illegally procured naturalization through concealment of a material fact or by willful misrepresentation. *See, e.g.*, 8 U.S.C. § 1451(c). The Supreme Court upheld the constitutionality of this type of evidentiary framework in *Luria v. United States*, 231 U.S. 9 (1913).

The SCAM Act uses an evidentiary mechanism like the one upheld in *Luria*. The Act takes committing substantial welfare fraud, affiliating with a designated foreign terrorist organization, or committing an aggravated felony or espionage within 10 years of naturalization as *prima facie* and sufficient evidence that a person illegally procured his or her citizenship despite not meeting the three substantive requirements at the time of naturalization. The SCAM Act therefore restores integrity to the naturalization process by ensuring only those who truly meet the substantive requirements of good moral character, attachment to the principles of the Constitution, and being well-disposed to the good order and happiness of the United States become U.S. citizens.