

CITATIONS

Statutes

- INA 101(F), 8 U.S.C. 1101(F) [statutory definition of lack of good moral character]
- INA 310(c), 8 U.S.C. 1421(c) [judicial review of denial of naturalization is de novo]
- INA 316(a), 8 U.S.C. 1427(a) [good moral character required for naturalization]
- INA 336(a), 8 U.S.C. 1447(a) [administrative appeal of initial decision to deny]
- INA 336(b), 8 U.S.C. 1447(b) [failure to make decision within 120 days after interview, federal court has jurisdiction to decide the matter]

Regulations

- 8 C.F.R. 310.5 [judicial review after failure to make decision within 120 days of interview; judicial review after denial of administrative appeal]
- 8 C.F.R. 316.10 [requirement of good moral character]
- 8 C.F.R. 316.10(b)(1), (2) & (3) [aggravated felonies/lack of good moral character]
- 8 C.F.R. 316.10(c)(1) [no naturalization if applicant still on parole or probation]
- 8 C.F.R. 336.2 [administrative appeal of denial of naturalization application]
- 8 C.F.R. 336.9(b) [judicial review of final denial to be filed within 120 days of decision]
- 8 C.F.R. 336.9(c) [judicial review: standard of review is de novo]

Treatises

- Gordon, Mailman & Yale-Loehr, 7 Immigration Law and Procedure, 95-34 ff [good moral character], (LexisNexus, Matthew Bender, May 2003 ed.)
- Levy, U.S. Citizenship and Naturalization Handbook, 264-304 [good moral character], (West Group, 1999)

Articles

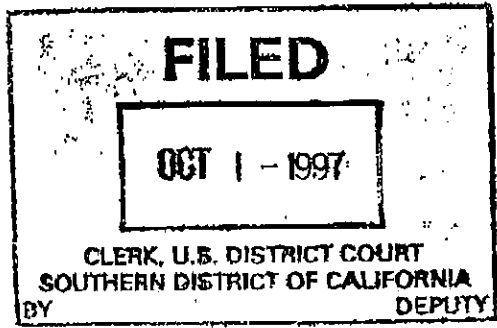
- Mautino, "How to Move Cases in the New World of Naturalization," 1998-99 Immigration Nationality Law Handbook, vol. 2, pp. 433-446, AILA 1998

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Robert A. Mautino
Mautino and Mautino
444 West "C" Street
Suite 320
San Diego, California 92101

(619) 235-9177

Attorney for Plaintiff



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

██████████)
)
Plaintiff,)
)
-vs-)
)
Mark K. Reed, District Director)
U.S. Immigration and)
Naturalization Service)
)
Defendant.)
)

Civil No. '97 CV 1785 K (AJB)

COMPLAINT FOR DECLARATORY
JUDGMENT OF NATURALIZATION
UNDER 8 U.S.C. 1447(b) and 1421(c)

INS No.: A26-██████████

Plaintiff, by his attorney, complaining of Defendant, alleges as follows:

1. Plaintiff is an individual and resident of the United States who resides within the jurisdiction of this court. Plaintiff's claim to naturalization arises under 8 U.S.C. 1147(b) and 8 U.S.C. 1421(c).

2. Mark K. Reed, the Defendant herein, is the district Director of the United States Immigration and Naturalization Service (INS) and is sued herein in his official capacity. Defendant is responsible for the grant or denial of naturalization applications filed within the San Diego INS district pursuant 8 U.S.C. 1421, 8 U.S.C. 1427, 8 C.F.R. 103 (g)(2)(ii), 8 C.F.R. 310.2 and 8 C.F.R. 316.3.

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3. The Court has jurisdiction of this action pursuant to 8 U.S.C. 1447(b),
8 U.S.C. 1421(c) and 28 U.S.C. 2201.

4. On or about September 1992 the Plaintiff filed his application for
naturalization with the INS office in Los Angeles, California.

5. Thereafter, the matter was transferred to the INS office in
Washington, D.C. because the Plaintiff had changed his residence to that location.

6. Thereafter, the matter was transferred to Defendant's office in San Diego,
California because the Plaintiff had changed his residence to that location.

7. On or about May 12, 1996, Defendant's agent told Plaintiff that his file
was in Defendant's San Diego office. Thereafter, Plaintiff has made numerous inquiries
about the status of his application and the reasons for delay in the adjudication thereof.
The Defendant's agents told him on each occasion on that he had to wait.

8. Plaintiff has a right to have Defendant adjudicate his application, and
Defendant's failure to take any action at all has denied Plaintiff his rights under 8 U.S.C.
1421 and 8 U.S.C. 1447.

9. Defendant's inaction represents a denial of Plaintiff's application, and
this Court may review the matter de novo under 8 U.S.C. 1421(c) and 1447(b).

10. Plaintiff has exhausted his administrative remedies.

11. Plaintiff desires a judicial determination of his naturalization application
and a declaration that he is entitled to be naturalized as a citizen of the United States.

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WHEREFORE, Plaintiff prays that:

1. The Court will hear Plaintiff's case and render a declaratory judgment that he is entitled to be naturalized; and

2. The Court grant such further relief as may be just, lawful and equitable in the premises.

Dated: October 1, 1997

RD Mautino
Robert A. Mautino
Attorney for Plaintiff

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

DEFENDANTS

Mark K. Reed, District Director
U.S. Immigration and Naturalization Service

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert A. Mautino
Mautino and Mautino
444 West "C" Street Suite 320
San Diego, California 92101
(619) 235-9177

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- U.S. Government Plaintiff
Federal Question (U.S. Government Not a Party)
U.S. Government Defendant
Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

8 U.S.C. 1421(c) and 1447(b) - claim to naturalization as a citizen of the United States

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Table with columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like 110 Insurance, 310 Airplane, 610 Agriculture, etc.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
2 Removal from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER (r.c.p. 23)

DEMAND \$
Check YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE

October 1, 1997

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Robert A. Mautino

AO 440 (Rev 5/85) Summons in a Civil Action

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA



vs

Mark K. Reed, District Director
U.S. Immigration and
Naturalization Service

SUMMONS IN A CIVIL ACTION

Case No. '97 CV 1785 K (AJB)

TO: (Name and Address of Defendant)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon PLAINTIFF'S ATTORNEY

Robert A. Mautino
444 West "C" Street, Suite 320
San Diego, California 92101

An answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Roberta Westdal

CLERK

PATRICIA L. ALBERDA



DATE

By Deputy Clerk