

1 BRETT A. SHUMATE
2 Assistant Attorney General
3 United States Department of Justice
4 Civil Division

5 JENNIFER J. KEENEY
6 Associate Director
7 Office of Immigration Litigation

8 JOHN J. W. INKELES
9 Chief
10 Denaturalization Unit

11 HANS CHEN
12 Deputy Chief

13 CHRISTOPHER W. HOLLIS
14 Trial Attorney, IL No. 6283101
15 United States Department of Justice
16 Office of Immigration Litigation
17 Denaturalization Unit
18 P.O. Box 878, Ben Franklin Station
19 Washington, DC 20044
20 Tel.: (202) 305-0899
21 christopher.hollis@usdoj.gov

22 *Counsel for the United States of America*

23 **UNITED STATES DISTRICT COURT**
24 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

25 UNITED STATES OF AMERICA,
26 Plaintiff,

27 vs.

28 ARMANDO MENDOZA,
Defendant.

) Case No.:

) **COMPLAINT TO REVOKE**
) **NATURALIZATION**

29 **I. PRELIMINARY STATEMENT**

30 The United States (“Plaintiff”) brings this civil action against Armando
31 Mendoza (“Defendant”) to revoke his U.S. citizenship. This action under 8 U.S.C.
32 § 1451(a) arises from Defendant’s criminal conduct prior to naturalizing, for which

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1 he was charged and to which he pled guilty after naturalizing. Specifically, before
2 he became a U.S. citizen, Defendant knowingly received material involving the
3 visual depiction of a minor engaging in sexually explicit conduct, in violation of 18
4 U.S.C. § 2252(a)(2). During his naturalization proceedings, he concealed his
5 crime. After naturalizing, he pled guilty to it.¹

6 Defendant’s conviction and the conduct supporting it requires revocation of
7 his naturalization on four independent grounds. First, Defendant illegally procured
8 his naturalization because he lacked the requisite good moral character to
9 naturalize. As his guilty plea demonstrates, during the period in which Congress
10 has mandated that he demonstrate he possessed good moral character, Defendant
11 (a) committed a crime involving moral turpitude (“CIMT”); (b) committed
12 unlawful acts that adversely reflected upon his moral character; and (c) provided
13 false testimony for the purpose of obtaining an immigration benefit. Additionally,
14 Defendant procured his naturalization by concealing and willfully mispresenting
15 facts that were material to determining his naturalization eligibility.

16 Based on Defendant’s actions described further below and in the attached
17 affidavit showing good cause, the United States brings this civil action to revoke
18 and set aside the order admitting Defendant to U.S. citizenship and to cancel his
19 Certificate of Naturalization.

20 **II. JURISDICTION AND VENUE**

21 1. This is an action filed under 8 U.S.C. § 1451(a) to revoke and set
22 aside the order admitting Defendant to U.S. citizenship and to cancel his
23 Certificate of Naturalization No. 34593484.

24 2. This Court has subject-matter jurisdiction pursuant to 28 U.S.C.
25 §§ 1331 and 1345 for a cause of action under 8 U.S.C. § 1451(a).

26
27
28 ¹ Change of Plea Hearing Transcript, *United States v. Mendoza-Peralta*, No. 3:13-
cr-3109-LAB (S.D. Cal. Mar. 17, 2014), ECF No. 48.

1 3. Venue is proper in this District under 8 U.S.C. § 1451(a) and 28
2 U.S.C. § 1391 because Defendant resides in this District.

3 **III. PARTIES**

4 4. Plaintiff is the United States of America.

5 5. Defendant is a naturalized U.S. citizen whose last known address is in
6 San Diego County, California.

7 **IV. FACTUAL BACKGROUND**

8 6. A true and complete copy of the affidavit of Emilio Vazzana, Special
9 Agent, Immigration and Customs Enforcement (“ICE”), U.S. Department of
10 Homeland Security (“DHS”), showing good cause for this action as required by 8
11 U.S.C. § 1451(a), is attached as Exhibit A.

12 **DEFENDANT’S IMMIGRATION HISTORY**

13 7. Defendant entered the United States without inspection in 1987 as an
14 infant.

15 8. On November 7, 2001, Defendant adjusted his status to permanent
16 resident of the United States as a derivative beneficiary child of an approved visa
17 petition filed by Defendant’s permanent resident father on behalf of Defendant’s
18 mother.

19 **DEFENDANT’S NATURALIZATION PROCEEDINGS**

20 **Naturalization Application**

21 9. On or about June 15, 2011, Defendant filed with U.S. Citizenship and
22 Immigration Services (“USCIS”) a Form N-400, Application for Naturalization
23 (“naturalization application”).

24 10. A true and complete copy of Defendant’s naturalization application,
25 except for redaction of immaterial personally identifying information, is attached
26 as Exhibit B.

1 11. In his naturalization application, Defendant answered “No” to Part
2 10(D), Question 15, which asked: “Have you **ever** committed a crime or offense
3 for which you were **not** arrested?” (emphasis in original). Ex. B.

4 12. In his naturalization application, Defendant answered “No” to Part
5 10(D), Question 23, which asked: “Have you **ever** given false or misleading
6 information to any U.S. Government official while applying for any immigration
7 benefit or to prevent deportation, exclusion, or removal?” (emphasis in original).
8 *Id.*

9 13. On or about June 8, 2011, Defendant signed his naturalization
10 application under penalty of perjury, thereby certifying that his application was
11 true and correct. *Id.*

12 **Naturalization Interview**

13 14. On September 20, 2011, a USCIS officer orally interviewed
14 Defendant regarding his naturalization application to determine his eligibility for
15 naturalization.

16 15. At the beginning of the naturalization interview, the USCIS officer
17 placed Defendant under oath.

18 16. During the naturalization interview, the USCIS officer asked
19 Defendant many of the same questions found in Defendant’s written naturalization
20 application.

21 17. During the naturalization interview, Defendant orally testified under
22 oath that he had never committed a crime or offense for which he had not been
23 arrested, consistent with his written response to Part 10(D), Question 15 of his
24 naturalization application.

25 18. The interviewing officer notated Defendant’s response to Part 10(D),
26 Question 15 by placing a handwritten checkmark in red ink next to Defendant’s
27 response. *Id.*

1 19. At the end of the naturalization interview, Defendant again signed the
2 naturalization application in the presence of the USCIS officer and again swore
3 under penalty of perjury that his naturalization application was true and correct.
4 *Id.*

5 20. On September 21, 2011, based on the information supplied by
6 Defendant in his naturalization application and the sworn answers he gave during
7 his naturalization interview, USCIS approved his naturalization application. *Id.*

8 **Oath of Allegiance**

9 21. Following USCIS’s approval of his naturalization application,
10 Defendant received a Form N-445, Notice of Naturalization Oath Ceremony (“oath
11 notice”), which indicated that his oath ceremony would take place on October 19,
12 2011.

13 22. A true and complete copy of Defendant’s oath notice, except for
14 redaction of immaterial personally identifying information, is attached as Exhibit
15 C.

16 23. On October 19, 2011, Defendant completed a questionnaire included
17 on his oath notice. *Id.*

18 24. Question 3 of the oath notice questionnaire asks, “AFTER the date
19 you were first interviewed on your Application for Naturalization, Form N-400:
20 [. . .] Have you knowingly committed any crime or offense, for which you have
21 not been arrested?” *Id.*

22 25. In response to Question 3 of the oath notice questionnaire, Defendant
23 checked the box marked “No.” *Id.*

24 26. Also on October 19, 2011, Defendant signed his oath notice, thereby
25 certifying that his answers provided in the oath notice questionnaire were “made
26 by me or at my direction, and . . . are true and correct as of the date of my
27 naturalization oath ceremony.” *Id.*

1 27. On October 19, 2011, based on Defendant's approved naturalization
2 application, the sworn answers he gave during his naturalization interview, and on
3 his responses to the oath notice questionnaire, Defendant was administered the
4 oath of allegiance, admitted to U.S. citizenship, and issued Certificate of
5 Naturalization No. 34593484.

6 28. A true and complete copy of Defendant's Certificate of Naturalization
7 is attached as Exhibit D.

8 **DEFENDANT'S FEDERAL**
9 **CRIMINAL CHARGES AND CONVICTION**

10 29. On October 2, 2013, the United States filed a Superseding Indictment
11 in the U.S. District Court for the Southern District of California charging
12 Defendant with three counts of knowingly receiving material involving the visual
13 depiction of a minor engaging in sexually explicit conduct, in violation of 18
14 U.S.C. § 2252(a)(2); and three counts of knowingly possessing material containing
15 visual depiction of a minor engaging in sexually explicit conduct, in violation of 18
16 U.S.C. § 2252(a)(4)(B). Superseding Indictment, *United States v. Mendoza-*
17 *Peralta*, No. 3:13-cr-3109-LAB (S.D. Cal. Oct. 2, 2013), ECF No. 22.

18 30. A true and complete copy of Defendant's Superseding Indictment is
19 attached as Exhibit E.

20 31. During his October 10, 2013 change of plea hearing, Defendant pled
21 guilty to Count 3 of the Superseding Indictment charging that, in violation of 18
22 U.S.C. § 2252(a)(2), Defendant knowingly received material involving the visual
23 depiction of a minor engaging in sexually explicit conduct. Change of Plea
24 Hearing Transc. (Oct. 10, 2013) at 11:6-8, *Mendoza-Peralta*, No. 3:13-cr-3109-
25 LAB (S.D. Cal. Mar. 17, 2014), ECF No. 48.

26 32. A true and complete copy of the transcript of Defendant's change of
27 plea hearing is attached as Exhibit F.

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1 33. During his plea colloquy, Defendant admitted, under oath, that he had
2 committed his crime between June 30, 2009, and August 19, 2012. Ex. F at 9:8 –
3 10:21.

4 34. On February 18, 2014, the court sentenced Defendant to a 75-month
5 incarceration term with a 20-year term of supervised release and sex offender
6 registration. Judgment & Sentencing Transc. (Feb. 18, 2014) at 42:18, 43:21-22,
7 *Mendoza-Peralta*, No. 3:13-cr-3109-LAB (S.D. Cal. Mar. 13, 2014), ECF No. 46;
8 *see also* Amended Judgment After Remand at 2-3, *Mendoza-Peralta*, No. 3:13-cr-
9 3109-LAB (S.D. Cal. July 20, 2017), ECF No. 85.

10 35. A true and complete copy of the transcript of Defendant’s sentencing
11 hearing is attached as Exhibit G.

12 36. A true and complete copy of Defendant’s amended judgment is
13 attached as Exhibit H.

14 **DEFENDANT’S FALSE STATEMENTS AND TESTIMONY**

15 **Commission of a Crime or Offense for Which Defendant Was Not Arrested**

16 37. Beginning on or about June 30, 2009, Defendant began knowingly
17 receiving material involving the visual depiction of a minor engaging in sexually
18 explicit conduct, in violation of 18 U.S.C. § 2252(a)(2).

19 38. Defendant had not been arrested for his crime by the time he
20 naturalized in October 2011.

21 39. Accordingly, in filing his naturalization application on June 15, 2011,
22 Defendant’s representation at Part 10(D), Question 15 – that he had never
23 committed a crime or offense for which he had not been arrested – was false.

24 40. Additionally, Defendant’s sworn oral testimony in response to Part
25 10(D), Question 15 during his September 20, 2011 naturalization interview –
26 affirming his prior response in the negative – was false.

27 41. Defendant knew his answer to Part 10(D), Question 15 in his
28 naturalization application, as well as his sworn oral testimony at his naturalization

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1 interview in response to this question, was false because Defendant knew that,
2 from on or about June 30, 2009, he began committing the crime of knowingly
3 receiving material involving the visual depiction of a minor engaging in sexually
4 explicit conduct, in violation of 18 U.S.C. § 2252(a)(2), and had not yet been
5 arrested for that crime.

6 42. In fact, on October 10, 2013, Defendant pled guilty to the crime of
7 knowingly receiving material involving the visual depiction of a minor engaging in
8 sexually explicit conduct between June 30, 2009, and August 19, 2012.

9 **Providing False or Misleading Information to any U.S. Government**
10 **Official While Applying for any Immigration Benefit**

11 43. In filing his naturalization application on June 15, 2011, Defendant's
12 representation in response to Part 10(D), Question 23 – that he had never given
13 false or misleading information to any U.S. government official while applying for
14 any immigration benefit or to prevent deportation, exclusion, or removal – was
15 false.

16 44. Defendant knew his answer to Part 10(D), Question 23 in his
17 naturalization application was false because Defendant knew that, in filing his
18 naturalization application, he *had* provided false information by representing that
19 he had never committed a crime or offense for which he had not been arrested.

20 45. In fact, on October 10, 2013, Defendant pled guilty to the crime of
21 knowingly receiving material involving the visual depiction of a minor engaging in
22 sexually explicit conduct between June 30, 2009, and August 19, 2012.

23 **Knowing Commission of Crime or Offense between Date of Naturalization**
24 **Interview and Taking the Oath of Allegiance to the United States**

25 46. Between the date of Defendant's naturalization interview on
26 September 20, 2011, and the date he took the oath of allegiance to the United
27 States on October 19, 2011, Defendant committed the crime of knowingly
28 receiving material involving the visual depiction of a minor engaging in sexually

1 explicit conduct, in violation of 18 U.S.C. § 2252(a)(2), a crime for which he had
2 not been arrested.

3 47. Accordingly, Defendant’s answer on October 19, 2011, in response to
4 Question 3 of his oath notice questionnaire – that, after the date he was first
5 interviewed on his naturalization application on September 20, 2011, he had not
6 knowingly committed any crime or offense for which he had not been arrested –
7 was false.

8 48. Defendant knew his October 19, 2011 answer to Question 3 of his
9 oath notice questionnaire was false because he knew that, since the time of his
10 September 20, 2011 naturalization interview, he had committed the crime of
11 knowingly receiving material involving the visual depiction of a minor engaging in
12 sexually explicit conduct.

13 49. In fact, on October 10, 2013, Defendant pled guilty to the crime of
14 knowingly receiving material involving the visual depiction of a minor engaging in
15 sexually explicit conduct between June 30, 2009, and August 19, 2012.

16 V. GOVERNING LAW

17 CONGRESSIONALLY IMPOSED PREREQUISITES 18 TO THE ACQUISITION OF CITIZENSHIP

19 50. No applicant has a right to naturalization “unless all statutory
20 requirements are complied with.” *United States v. Ginsberg*, 243 U.S. 472, 474-75
21 (1917). Indeed, the Supreme Court has underscored that “[t]here must be strict
22 compliance with all the congressionally imposed prerequisites to the acquisition of
23 citizenship.” *Fedorenko v. United States*, 449 U.S. 490, 506 (1981); *see also id.*
24 (quoting *Ginsberg*, 243 U.S. at 474) (““An alien who seeks political rights as a
25 member of this Nation can rightfully obtain them only upon the terms and
26 conditions specified by Congress[.]””).

27 51. Congress has mandated that an individual may not naturalize unless
28 that person “during all periods referred to in this subsection has been and still is a

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1 person of good moral character” *See* 8 U.S.C. § 1427(a)(3). The required
2 statutory period for good moral character begins five years before the date the
3 applicant files the naturalization application, and it continues until the applicant
4 takes the oath of allegiance and becomes a U.S. citizen. *See id.*; 8 C.F.R.
5 § 316.10(a)(1).

6 52. Although Congress has not specifically defined what constitutes good
7 moral character for naturalization purposes, the Immigration and Nationality Act
8 lists certain classes of applicants who cannot be found to have the requisite good
9 moral character. *See* 8 U.S.C. § 1101(f).

10 53. As a matter of law, an applicant necessarily lacks good moral
11 character if he or she commits a CIMT during the statutory period and later either
12 is convicted of the offense or admits commission of the criminal activity. 8 U.S.C.
13 § 1101(f)(3) (cross-referencing 8 U.S.C. § 1182(a)(2)(A)); 8 C.F.R.
14 § 316.10(b)(2)(i) (providing that an applicant “shall be found to lack good moral
15 character” if, for example, the applicant committed and was convicted of one or
16 more CIMTs).

17 54. Congress also has explicitly precluded individuals who give false
18 testimony for the purpose of obtaining immigration benefits from establishing the
19 good moral character necessary to naturalize. 8 U.S.C. § 1101(f)(6).

20 55. In addition to identifying classes of individuals who lack good moral
21 character, Congress created a “catch-all” provision, which states, “The fact that
22 any person is not within any of the foregoing classes shall not preclude a finding
23 that for other reasons such person is or was not of good moral character.” 8 U.S.C.
24 § 1101(f) (flush language).

25 56. Thus, an individual who, during the statutory period, commits an
26 unlawful act adversely reflecting upon his or her moral character cannot meet the
27 good moral character requirement unless he or she establishes that extenuating
28

1 circumstances existed. *See* 8 C.F.R. § 316.10(b)(3)(iii); *see also* 8 U.S.C.
2 § 1101(f) (flush language).

3 57. Extenuating circumstances “focus[] on circumstances during the
4 statutory period that may ‘palliate or lessen’ an offender’s guilt for an offense.”
5 *United States v. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (citations omitted).

6 58. “[A] conviction during the statutory period is not necessary for a
7 finding that an applicant lacks good moral character. It is enough that the offense
8 was ‘committed’ during that time.” *United States v. Suarez*, 664 F.3d 655, 660-61
9 (discussing 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10); *United States v. Teng Jiao*
10 *Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (citing *Suarez*, 664 F.3d at 661) (focusing
11 unlawful acts analysis on conviction of *or* commission of acts during the statutory
12 good moral character period per 8 C.F.R. § 316.10(b)(3)(iii), rather than requiring
13 conviction during this period). An individual who has been convicted, however, is
14 collaterally estopped from contesting all issues necessarily decided in the criminal
15 matter. *See Teng Jiao Zhou*, 815 F.3d at 644 (citation omitted) (explaining that
16 conviction “binds” the civil denaturalization court as to the criminal offense);
17 *Suarez*, 664 F.3d at 663 (citing *United States v. Jean-Baptiste*, 395 F.3d 1190, 1192
18 (11th Cir. 2005)) (stating that a defendant “may not . . . re-litigate issues decided in
19 his criminal case” in a subsequent civil denaturalization action), *cert. denied*, 546
20 U.S. 852 (2005).

21 **THE NATURALIZATION REVOCATION STATUTE**

22 59. Recognizing that there are situations where an individual has
23 naturalized despite failing to comply with all congressionally imposed
24 prerequisites to the acquisition of citizenship or by concealing or misrepresenting
25 facts that are material to the decision on whether to approve his or her
26 naturalization application, Congress enacted 8 U.S.C. § 1451.

1 60. Under 8 U.S.C. § 1451(a), the Court must revoke an order of
2 naturalization and cancel the individual’s Certificate of Naturalization if his or her
3 naturalization was either:

- 4 (i) illegally procured; or
- 5 (ii) procured by concealment of a material fact or by willful
6 misrepresentation.

7 61. Failure to comply with any of the congressionally imposed
8 prerequisites to the acquisition of citizenship renders the citizenship “illegally
9 procured.” *Fedorenko*, 449 U.S. at 506.

10 62. Naturalization has been procured by concealment of a material fact or
11 by willful misrepresentation where: (1) the naturalized citizen misrepresented or
12 concealed some fact during the naturalization process; (2) the misrepresentation or
13 concealment was willful; (3) the fact was material; and (4) the naturalized citizen
14 procured citizenship as a result of the misrepresentation or concealment. *Kungys v.*
15 *United States*, 485 U.S. 759, 767 (1988).

16 63. Where the government establishes that a defendant’s naturalization
17 was procured illegally or by willful misrepresentation or concealment of a material
18 fact, “district courts lack equitable discretion to refrain from entering a judgment of
19 denaturalization.” *Fedorenko*, 449 U.S. at 517.

20 **VI. CAUSES OF ACTION**

21 **COUNT I**

22 **ILLEGAL PROCUREMENT OF NATURALIZATION**
23 **LACK OF GOOD MORAL CHARACTER**
24 **(CRIME INVOLVING MORAL TURPITUDE)**

25 64. Plaintiff re-alleges and incorporates by reference the factual and legal
26 allegations contained in Sections II through V of this complaint.

27 65. Defendant was statutorily required to establish that he was a person of
28 good moral character from June 15, 2006, five years before he filed his

1 naturalization application on June 15, 2011, until the date he became a U.S. citizen
2 on October 19, 2011. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

3 66. Defendant was statutorily barred from showing that he was a person
4 of good moral character because, during his statutory good moral character period,
5 he committed a CIMT and subsequently was convicted of that CIMT. *See* 8
6 U.S.C. § 1101(f)(3); 8 C.F.R. § 316.10(b)(2)(i).

7 67. As outlined above in paragraph 31, Defendant pled guilty to
8 knowingly receiving material involving the visual depiction of a minor engaging in
9 sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(2).

10 68. As established in Defendant’s guilty plea, and as also outlined above
11 in paragraphs 31 and 33, Defendant engaged in the crime of knowingly receiving
12 material involving the visual depiction of a minor engaging in sexually explicit
13 conduct, in violation of 18 U.S.C. § 2252(a)(2), between June 30, 2009, and
14 August 19, 2012, a period that overlaps with his statutory period.

15 69. The crime of knowingly receiving material involving the visual
16 depiction of a minor engaging in sexually explicit conduct, in violation of 18
17 U.S.C. § 2252(a)(2), is a CIMT. *See United States v. Santacruz*, 563 F.3d 894, 897
18 (9th Cir. 2009) (emphasizing that “[s]pecific intent is not required for a crime to
19 involve moral turpitude, explaining that “[b]ecause possession of child
20 pornography offends conventional morality and visits continuing injury on
21 children, it is ‘vile, base or depraved and . . . violates societal moral standards’
22 Therefore, [knowing] possession of child pornography . . . is a crime involving
23 moral turpitude”); *see also United States v. Teague*, 722 F.3d 1187, 1190 (9th Cir.
24 2013) (“Possession of child pornography is a lesser included offense of receipt of
25 child pornography because a person who has received child pornography has also,
26 by definition, possessed it.”).

27 70. Because Defendant committed a CIMT during the statutory period for
28 which he later was convicted, he was barred under 8 U.S.C. § 1101(f)(3) from

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1 showing that he had the good moral character necessary to become a naturalized
2 U.S. citizen.

3 71. Because Defendant was not a person of good moral character, he was
4 ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

5 72. Because Defendant was ineligible to naturalize, he illegally procured
6 his naturalization, and this Court must revoke his naturalization as provided under
7 8 U.S.C. § 1451(a).

8 **COUNT II**

9 **ILLEGAL PROCUREMENT OF NATURALIZATION**
10 **LACK OF GOOD MORAL CHARACTER**
11 **(UNLAWFUL ACTS)**

12 73. Plaintiff re-alleges and incorporates by reference the factual and legal
13 allegations contained in Sections II through V of this complaint.

14 74. Defendant was statutorily required to establish that he was a person of
15 good moral character from June 15, 2006, five years before he filed his
16 naturalization application on June 15, 2011, until the date he became a U.S. citizen
17 on October 19, 2011. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

18 75. Defendant could not establish that he was a person of good moral
19 character because, during his statutory good moral character period, he committed
20 unlawful acts that reflected adversely upon his moral character, knowingly
21 receiving material involving the visual depiction of a minor engaging in sexually
22 explicit conduct, in violation of 18 U.S.C. § 2252(a)(2), and there are no
23 extenuating circumstances. *See* 8 U.S.C. § 1101(f) (flush language); 8 C.F.R.
24 § 316.10(b)(3)(iii).

25 76. As outlined above in paragraphs 31 and 33, Defendant pled guilty to
26 engaging in conduct in violation of 18 U.S.C. § 2252(a)(2) between June 30, 2009,
27 and August 19, 2012, a period that overlaps with his statutory period.
28

1 77. The crime of knowingly receiving material involving the visual
2 depiction of a minor engaging in sexually explicit conduct adversely reflected on
3 Defendant's moral character.

4 78. There were no extenuating circumstances with regard to Defendant's
5 unlawful activity that would lessen his guilt. He therefore cannot avoid the
6 regulatory bar on establishing good moral character found at 8 C.F.R.
7 § 316.10(b)(3)(iii).

8 79. Defendant's commission during his statutory period of the unlawful
9 act of knowingly receiving material involving the visual depiction of a minor
10 engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(2),
11 reflects so adversely on Defendant's moral character that no evidence of his good
12 moral character would permit Defendant to satisfy his burden of establishing good
13 moral character as required for naturalization.

14 80. The catch-all provision for unlawful acts at 8 U.S.C. § 1101(f) and
15 8 C.F.R. § 316.10(b)(3)(iii) applies to Defendant regardless of whether the
16 statutory CIMT bar set forth above applies to him.

17 81. Because Defendant committed unlawful acts that adversely reflected
18 on his moral character during the statutory period, and he cannot demonstrate
19 extenuating circumstances, he cannot show under 8 U.S.C. § 1101(f) and 8 C.F.R.
20 § 316.10(b)(3)(iii) that he had the good moral character necessary to naturalize as a
21 U.S. citizen.

22 82. Because Defendant was not a person of good moral character, he was
23 ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

24 83. Because Defendant was ineligible to naturalize, he illegally procured
25 his naturalization, and this Court must revoke his naturalization as provided under
26 8 U.S.C. § 1451(a).

COUNT III

**ILLEGAL PROCUREMENT OF NATURALIZATION
LACK OF GOOD MORAL CHARACTER
(FALSE TESTIMONY)**

84. Plaintiff re-alleges and incorporates by reference the factual and legal allegations contained in Sections II through V of this complaint.

85. Defendant was statutorily required to establish that he was a person of good moral character from June 15, 2006, five years before he filed his naturalization application on June 15, 2011, until the date he became a U.S. citizen on October 19, 2011. *See* 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

86. Defendant was statutorily barred from showing that he was a person of good moral character because, during his statutory good moral character period, he gave false testimony, under oath, for the purpose of obtaining the immigration benefit of naturalization. *See* 8 U.S.C. § 1101(f)(6); 8 C.F.R. § 316.10(b)(2)(vi).

87. As outlined above in paragraphs 37 through 38 and 40 through 42, after being placed under oath, Defendant provided false testimony during his September 20, 2011 naturalization interview when, in responding to Question 15 of Part 10(D), he testified that he had never committed a crime or offense for which he was not arrested, despite having committed, without arrest at the time, the crime of knowingly receiving material involving the visual depiction of a minor engaging in sexually explicit conduct.

88. Defendant provided the foregoing false testimony for the purpose of obtaining the immigration benefit of naturalization.

89. Because Defendant provided false testimony under oath for the purpose of obtaining naturalization, he was barred under 8 U.S.C. § 1101(f)(6) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

1 90. Because Defendant could not establish that he was a person of good
2 moral character during the statutory period, he was ineligible for naturalization
3 under 8 U.S.C. § 1427(a)(3).

4 91. Because he was ineligible to naturalize, Defendant illegally procured
5 his naturalization, and this Court must revoke his naturalization as provided under
6 8 U.S.C. § 1451(a).

7 **COUNT IV**

8 **PROCUREMENT OF U.S. CITIZENSHIP BY CONCEALMENT**
9 **OF A MATERIAL FACT OR BY WILLFUL MISREPRESENTATION**

10 92. Plaintiff re-alleges and incorporates by reference the factual and legal
11 allegations contained in Sections II through V of this complaint.

12 93. Under 8 U.S.C. § 1451(a), a court must revoke naturalization where it
13 is procured by concealment of a material fact or by willful misrepresentation.

14 94. As outlined above in paragraphs 37 through 39 and paragraphs 41
15 through 45, during the naturalization process, and specifically in submitting his
16 naturalization application, Defendant concealed and willfully misrepresented the
17 following facts:

18 (a) Defendant’s commission of a crime for which he was not arrested;

19 (b) Defendant’s provision of false information to a U.S. government
20 official while applying for the immigration benefit of naturalization.

21 95. As also outlined above in paragraphs 37 through 38 and paragraphs 40
22 through 42, during the naturalization process, and specifically during his interview
23 in support of his naturalization application, Defendant concealed and willfully
24 misrepresented his commission of a crime for which he was not arrested.

25 96. Additionally, as outlined above in paragraphs 46 through 49, on the
26 day he naturalized, Defendant willfully misrepresented that, since the date of his
27 naturalization interview, he had not knowingly committed any crime or offense for
28 which he had not been arrested.

COMPLAINT TO REVOKE NATURALIZATION

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1 97. Defendant knew his representations were false and misleading, and he
2 therefore made them willfully.

3 98. Defendant’s concealment and misrepresentation regarding his crime,
4 his provision of false information to a U.S. government official while applying for
5 the immigration benefit of naturalization, and the crime he had committed since the
6 date of his naturalization interview were material to determining his eligibility for
7 naturalization because they had the natural tendency to influence, or were capable
8 of influencing, USCIS’s decision whether to approve Defendant’s naturalization
9 application and whether he was eligible to naturalize.

10 99. Defendant procured his naturalization as a result of his
11 misrepresentations.

12 100. Had Defendant disclosed his criminal conduct, USCIS would not have
13 approved his naturalization application.

14 101. Had Defendant disclosed his provision of false information, USCIS
15 would not have approved his naturalization application.

16 102. Indeed, Defendant’s crime of knowingly receiving material involving
17 the visual depiction of a minor engaging in sexually explicit conduct implicates the
18 bar to good moral character for those convicted of a CIMT. *See* 8 U.S.C.
19 §§ 1101(f)(3), 1182(a)(2)(A)(i)(I), 1427(a)(3).

20 103. Accordingly, Defendant procured his naturalization by concealment
21 and willful misrepresentation of material facts, and this Court must revoke his
22 naturalization pursuant to 8 U.S.C. § 1451.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff respectfully requests:

- 25 (1) A declaration that Defendant illegally procured his naturalization;
- 26 (2) A declaration that Defendant procured his naturalization by
- 27 concealment of material facts and by willful misrepresentation;

1 (3) Judgment revoking and setting aside the order admitting Defendant to
2 citizenship and canceling Certificate of Naturalization No. 34593484, effective as
3 of the original date of the order and certificate, October 19, 2011;

4 (4) Judgment forever restraining and enjoining Defendant from claiming
5 any rights, privileges, benefits, or advantages under any document that evidences
6 U.S. citizenship obtained as a result of his October 19, 2011 naturalization;

7 (5) Judgment requiring Defendant to surrender and deliver, within ten
8 days of judgment, his Certificate of Naturalization, as well as any copies thereof in
9 his possession or control (and to make good faith efforts to recover and then
10 surrender any copies thereof that he knows are in the possession or control of
11 others), to the Attorney General through the Attorney General’s designated
12 representative, undersigned counsel;

13 (6) Judgment requiring Defendant to surrender and deliver, within ten
14 days of judgment, any other indicia of U.S. citizenship (whether current or
15 expired), including, but not limited to, U.S. passports and passport cards, as well as
16 any Enhanced Driver’s License and any copies thereof in his possession or control
17 (and to make good faith efforts to recover and then surrender any copies thereof
18 that he knows are in the possession or control of others), to the Attorney General
19 through the Attorney General’s designated representative, undersigned counsel;
20 and

21 //

22 //

(7) Judgment granting the United States any other relief that may be lawful and proper in this case.

Dated: June 4, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney
Southern District of California

BRETT A. SHUMATE
Assistant Attorney General
United States Department of Justice
Civil Division

ERIN M. DIMBLEBY
Assistant United States Attorney
U.S. Attorney's Office
Southern District of California
880 Front Street, Room 6293
San Diego, California 92101
Tel.: (619) 546-6987
erin.dimbleby@usdoj.gov

JENNIFER J. KEENEY
Associate Director
Office of Immigration Litigation

JOHN J. W. INKELES
Chief
Denaturalization Unit

HANS CHEN
Deputy Chief

By: /s/ Christopher W. Hollis
CHRISTOPHER W. HOLLIS
Trial Attorney, IL No. 6283101
United States Department of Justice
Office of Immigration Litigation
Denaturalization Unit
P.O. Box 878, Ben Franklin Station
Washington, DC 20044
Tel.: (202) 305-0899
christopher.hollis@usdoj.gov

Counsel for the United States of America