UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, Plaintiff, v. ALWIN FAROUK GARIBA, Defendant.	Case No. **COMPLAINT TO REVOKE NATURALIZATION**

I. PRELIMINARY STATEMENT

1. The United States of America ("Plaintiff") brings this civil action against Defendant Alwin Farouk Gariba ("Defendant") to revoke his naturalized U.S. citizenship. This action under 8 U.S.C. § 1451(a) is based on Defendant's criminal conduct prior to naturalizing, for which he was charged and convicted after naturalizing. Specifically, on at least three separate occasions in 1998, Defendant sexually abused a 10 year-old child. In his naturalization interview in December 1999, Defendant concealed this conduct, thereby procuring naturalization which otherwise would have been denied and for which he was statutorily ineligible. He was arrested, charged with these crimes, and pled guilty in July 2000, mere months after his February 2000 naturalization. Accordingly, as shown below, Defendant unlawfully naturalized and this Court must order the denaturalization of Defendant.

II. JURISDICTION AND VENUE

2. This is an action under 8 U.S.C. § 1451(a) to revoke and set aside the decision admitting Defendant to U.S. Citizenship, and to cancel Defendant's Certificate of Naturalization No. 23971942.

3. This Court has subject matter jurisdiction pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1345.

4. Venue is proper in this district under 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391, because Defendant can be found in and resides in this District.

5. The affidavit of Daniel Hale, a Deportation Officer with U.S. Immigration and Customs Enforcement, an agency within the Department of Homeland Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached as Exhibit A.

III. PARTIES

6. Plaintiff is the United States of America.

7. Defendant was born in Guyana, and is a naturalized U.S. citizen. His last known place of residence in the United States is Greensboro, North Carolina.

IV. FACTUAL BACKGROUND

A. Defendant's Commission of and Conviction for Sexual Abuse of a 10 Year-Old Child

8. In 1998, Defendant sexually assaulted a child.

9. Specifically, on at least three separate occasions – June 3, 1998, July 3, 1998, and August 24, 1998 – Defendant committed the crime of Taking Indecent Liberties with Children, in violation of N.C. Gen. Stat. § 14-202.1.

10. Defendant was 31 years old at the time he committed the first offense; the victim was only 10 years old.

11. On or about March 31, 2000, Defendant was arrested for these offenses, and was thereafter charged by indictment with the crime of Taking Indecent Liberties with Children, in violation of N.C. Gen. Stat. § 14-202.1. *See* Indictments, *State v. Alwin Farouq Gariba*, Nos. 00-CRS-84821, 00-CRS-84822, 00-CRS-84821 (Guilford Cnty. Sup. Ct.) (attached as Exhibit B).

12. Under North Carolina law, Taking Indecent Liberties with Children is a Class F Felony, punishable by up to fifty-nine (59) months' incarceration. N.C. Gen. Stat. § 14-202.1(b).

13. On or about July 17, 2000, Defendant pled guilty in the Guilford County Superior Court in Greensboro, North Carolina, to three counts of Taking Indecent Liberties with Children, in violation of N.C. Gen. Stat. § 14-202.1. *See* Transcript of Plea, *State v. Alwin Farouq Gariba*, No. 00-CRS-84821 (Guilford Cnty. Sup. Ct.) (attached as Exhibit C).

14. For these crimes, Defendant was sentenced to two consecutive terms totaling twenty to twenty-four months' incarceration. The sentence of incarceration was suspended, and Defendant was placed on sixty (60) months' probation. *See* Judgment

Suspending Sentence, *State v. Alwin Farouq Gariba*, No. 00-CRS-84821 (Guilford Cnty. Sup. Ct.) (attached as Exhibit D).

15. The court ordered Defendant to register as a sex offender.

B. Immigration & Naturalization History

16. Defendant entered the United States from Guyana on August 2, 1985, pursuant to a P2-2 visa as a beneficiary of his mother, who was a lawful permanent resident. Upon entry, he was accorded permanent resident status.

17. On or about October 15, 1996, Defendant filed a Form N-400, Application for Naturalization ("Form N-400" or "naturalization application"), with the legacy Immigration and Naturalization Service ("INS").[1] *See* Form N-400, Application for Naturalization (attached as Exhibit E).

18. On or about December 6, 1999, Defendant appeared for his initial interview with INS.

19. At the beginning of his December 6, 1999 interview, the INS Officer placed Defendant under oath and interviewed him regarding his Form N-400 and eligibility for naturalization.

[1] On March 1, 2003, the INS ceased to exist and many of its relevant functions transferred to DHS. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, 110 Stat. 2135 (Nov. 25, 2002). However, because the many of the events in this case took place prior to the transfer, "INS" will be referenced where factually accurate.

20. In response to Question 15a within Part 7 of the Form N-400, Defendant answered "No" to the question: "Have you ever knowingly committed any crime for which you have not been arrested?"

21. During the interview, in response to Question 15b within Part 7 of the Form N-400, Defendant changed his answer from "No" to "Yes," in response to the question: "Have you ever been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance excluding traffic violations?"

22. Defendant disclosed three incidents in response to Question 15b, Part 7 of the Form N-400, and the examining INS officer required Defendant to submit additional information on the incidents.

23. At the end of his naturalization interview on December 6, 1999, Defendant again signed his Form N-400 under penalty of perjury, swearing that he was knowledgeable as to the content of the application, that the numbered corrections appearing on it were made at his request, and that the amended application was true to the best of his knowledge and belief.

24. On or about December 14, 1999, Defendant mailed the additional documents relating to the three criminal incidents to INS.

25. Following the review of the additional documents, and based on Defendant's sworn statements on his Form N-400 and at his December 6, 1999 naturalization interview, INS approved Defendant's application for naturalization on January 10, 2000.

26. Based on his approved Form N-400, Defendant was administered the oath of allegiance on February 29, 2000, admitting him to U.S. citizenship.

27. Defendant was issued Certificate of Naturalization No. 23971942. *See* Certificate of Naturalization (attached as Exhibit F).

V. GOVERNING LAW

A. Congressionally imposed prerequisites to the acquisition of citizenship.

28. No alien has a right to naturalization "unless all statutory requirements are complied with." *United States v. Ginsberg*, 243 U.S. 472, 474-75 (1917). The Supreme Court has consistently held that "there must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship." *Fedorenko v. United States*, 449 U.S. 490, 506 (1981).

29. Congress has mandated that an individual may not naturalize unless that person "during all periods referred to in this subsection has been and still is a person of good moral character . . . ." *See* 8 U.S.C. § 1427(a)(3). The required statutory period for good moral character begins five years before the date the applicant files the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a U.S. citizen. *Id.*; 8 C.F.R. § 316.10(a)(1).

30. As a matter of law, an applicant necessarily lacks good moral character if he or she commits a crime involving moral turpitude ("CIMT") during the statutory period and later either is convicted of the crime or admits his or her commission of the criminal activity. 8 U.S.C. § 1101(f)(3) (cross-referencing 8 U.S.C. § 1182(a)(2)(A)); 8

C.F.R. § 316.10(b)(2)(i) (providing that an applicant "shall be found to lack good moral character" if, for example, they committed and were convicted of one or more crimes involving moral turpitude).

31. Congress also created a "catch-all" provision, which states, "[t]he fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character." 8 U.S.C. § 1101(f).

32. Thus, individuals who commit unlawful acts adversely reflecting upon their moral character cannot meet the good moral character requirement, unless they prove that extenuating circumstances exist. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

33. "[A] conviction during the statutory period is not necessary for a finding that an applicant lacks good moral character. It is enough that the offense was 'committed' during that time." *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011) (discussing both 8 U.S.C. § 1101(f)(3) and 8 C.F.R. § 316.10(b)(3)(iii)). But where an individual has been convicted, he is collaterally estopped from contesting all issues necessarily decided in the criminal matter. *See id.* at 663 (stating that a defendant "may not . . . re-litigate issues decided in his criminal case" in a subsequent civil denaturalization action).

B. <u>The Denaturalization Statute</u>

34. Recognizing that there are situations in which an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or misrepresenting facts that are material to the decision

on whether to grant his or her naturalization application, Congress enacted 8 U.S.C. § 1451.

35. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization and cancel the individual's Certificate of Naturalization if his or her naturalization was *either*:

i. illegally procured, *or*

ii. procured by concealment of a material fact or by willful misrepresentation.

36. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship "illegally procured." *Fedorenko*, 449 U.S. at 506.

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

38. Where the government establishes that the defendant's citizenship was procured illegally or by willful misrepresentation of material facts, "district courts lack equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

VI. CAUSES OF ACTION

COUNT I

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (CRIME INVOLVING MORAL TURPITUDE)

39. The United States re-alleges and incorporates by reference paragraphs 1 through 38 of this Complaint.

40. As discussed above, to be eligible for naturalization an applicant must show that he has been a person of good moral character for the five-year statutory period before he files his naturalization application, and until the time he becomes a naturalized U.S. citizen. 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1). Thus, Defendant was required to establish that he was a person of good moral character from October 15, 1991 (five years before he filed his naturalization application) until he naturalized on February 29, 2000.

41. Defendant was statutorily precluded from establishing the good moral character necessary to naturalize because he committed a CIMT during the statutory period. 8 U.S.C. § 1101(f)(3); 8 C.F.R. § 316.10(b)(2)(i).

42. As set forth above, Defendant sexually abused the minor victim on at least three occasions in June, July, and August 1998 – all of which were during the statutory period prior to naturalization. This sexual abuse resulted in his conviction (following naturalization) for three counts of Taking Indecent Liberties with a Child in violation of N.C. Gen. Stat. § 14-202.1.

43. On July 17, 2000, Defendant pled guilty to and was convicted of those crimes in the Guilford County Superior Court in Greensboro, North Carolina. *See* Exhibits C, D.

44. Each one of Defendant's convictions under N.C. Gen. Stat. § 14-202.1 (Taking Indecent Liberties with Children) constitutes a CIMT. *See, e.g.*, *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 244 (2002) ("The sexual abuse of a child is a most serious crime and an act repugnant to the moral instincts of a decent people.").

45. Because Defendant committed a CIMT during the statutory period, to which he admitted and for which he was later convicted, Defendant was barred under 8 U.S.C. § 1101(f)(3) from showing that he had the good moral character necessary to become a naturalized U.S. citizen.

46. Because Defendant committed a CIMT and was therefore not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

47. Because he was ineligible to naturalize, Defendant procured his citizenship illegally, and this Court must revoke his citizenship, as provided for by 8 U.S.C. § 1451(a).

COUNT II

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (UNLAWFUL ACTS)

48. The United States re-alleges and incorporates by reference paragraphs 1 through 47 of this Complaint.

49. As discussed above, Defendant was required to establish that he was a person of good moral character from October 15, 1991 to February 29, 2000. 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

50. Defendant could not establish the requisite good moral character for naturalization because he committed unlawful acts during the statutory period that reflected adversely on his moral character and there were no extenuating circumstances. 8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii).

51. Specifically, as set forth in paragraphs 8 through 15 above, Defendant sexually abused a minor victim on at least three occasions in June, July, and August 1998 – all of which were during the statutory period prior to naturalization.

52. On July 17, 2000, Defendant pled guilty to and was convicted of those crimes in the Guilford County Superior Court in Greensboro, North Carolina.

53. Defendant's crimes adversely reflect on his moral character.

54. Defendant cannot establish extenuating circumstances with regard to his sexual assault of a 10 year-old child, and he therefore cannot avoid the regulatory bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii).

55. The regulatory "unlawful acts" bar on establishing good moral character found in 8 C.F.R. § 316.10(b)(3)(iii) applies to Defendant regardless of whether the statutory CIMT bar (set forth in Count I) also applies to him.

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

57. Because Defendant was ineligible to naturalize, he illegally procured his naturalization and this Court must revoke his citizenship under 8 U.S.C. § 1451(a).

COUNT III

PROCUREMENT OF UNITED STATES CITIZENSHIP BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

58. The United States re-alleges and incorporates by reference paragraphs 1 through 57 of this Complaint.

59. Under 8 U.S.C. § 1451(a), this Court must revoke Defendant's citizenship and cancel his Certificate of Naturalization because he procured his naturalization by concealment of a material fact or by willful misrepresentation.

60. As set forth above, throughout the naturalization process, Defendant willfully misrepresented and concealed his sexual abuse of a 10 year-old child. At no point during the naturalization process did Defendant disclose his criminal conduct.

61. Specifically, Defendant voluntarily affirmed the accuracy of his answers within the Form N-400, including Question 15a wherein he indicated that he had never knowingly committed any crime or offense for which he had not been arrested, despite knowing that such representations were false and misleading. Accordingly, Defendant made these representations willfully.

62. Defendant's misrepresentations were material to his naturalization because the disclosure of his sexual crimes against a 10 year-old child would have had a natural tendency to influence INS's decision whether to approve Defendant's naturalization application. Indeed, Defendant's criminal conduct rendered him ineligible for citizenship.

63. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts. This Court must therefore revoke his citizenship pursuant to the requirements of 8 U.S.C. § 1451(a).

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, prays for relief as follows:

(1) A declaration that Defendant procured his citizenship illegally;

(2) A declaration that Defendant procured his citizenship by concealment of material facts and by willful misrepresentation;

(3) Judgment revoking and setting aside the order admitting Defendant to citizenship and canceling Certificate of Naturalization No. 23971942, effective as of the original date of the order and certificate, February 29, 2000;

(4) Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages under any document which evidences United States citizenship obtained as a result of his February 29, 2000 naturalization;

(5) Judgment requiring Defendant, within ten (10) days of judgment, to surrender and deliver his Certificate of Naturalization, as well as any copies thereof in his possession or control (and to make good faith efforts to recover and then surrender any copies thereof

that he knows are in the possession or control of others), to the Attorney General, or his representative, including undersigned counsel;

(6) Judgment requiring Defendant, within ten (10) days of judgment, to surrender and deliver any other indicia of U.S. citizenship, including, but not limited to, United States passports, voter registration cards, and other voting documents, as well as any copies thereof in his possession or control (and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others), to the Attorney General, or his representative, including undersigned counsel; and

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

///

Date: February 22, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

WILLIAM C. PEACHEY
Director, District Court Section
Office of Immigration Litigation

TIMOTHY BELSAN
Deputy Chief
National Security & Affirmative Litigation Unit
Office of Immigration Litigation

/S/ William M. Martin
WILLIAM M. MARTIN
Trial Attorney
Pennsylvania Bar 84612
United States Department of Justice
Office of Immigration Litigation
District Court Section
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 598-2377
Fax: (202) 305-7000
Email: william.martin3@usdoj.gov

Exhibit A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, Plaintiff, v. ALWIN FAROUK GARIBA, Defendant.	)))))))))	AFFIDAVIT OF GOOD CAUSE IN SUPPORT OF ACTION TO REVOKE NATURALIZATION

I, Daniel Hale, declare under penalty of perjury as follows:

1. I am a Deportation Officer with United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). In this capacity, I have access to the official records of DHS, including the immigration file of Alwin Farouk Gariba, also known as Alwin Gariba ("Gariba"), A [redacted]9 492.

2. I have examined records relating to Gariba, including, but not limited to, his immigration file. Based upon my review of Gariba's records, I state, on information and belief, that the information set forth in this Affidavit of Good Cause is true and correct.

FACTUAL BACKGROUND

3. On or about October 15, 1996, Gariba filed an Application for Naturalization, Form N-400, with the legacy Immigration and Naturalization Service[1] ("INS") in Charlotte, North Carolina. The INS accepted it for filing on or about October 15, 1996.

[1] As of March 1, 2003, the INS ceased to exist and most of its functions, including the adjudication of applications for naturalization, were transferred to various bureaus within DHS. *See* Homeland Security Act of 2002, §§ 441, 451, 471, Pub. L. No. 107-296, 116 Stat. 2135 (2002) (codified at 6 U.S.C. §§ 251, 271, 291). This transfer does not affect the issues in this case. Because Gariba's naturalization application was adjudicated before the transfer, this Affidavit of Good Cause will reference the INS were factually appropriate.

4. At the time he filed the application, Gariba used the name "Alwin F Gariba" and alien registration number A [redacted]9 492.

5. During his naturalization process, Gariba represented that he had been arrested three times. Specifically, Gariba claimed he had been arrested:

a. in 1991 in Craven County, NC, for Driving While Impaired, and that in this case he was found "not guilty";

b. in 1992 in Carteret County, NC, for Possession of Stolen Goods, and that this case was dismissed; and

c. in 1993 in Carteret County, NC, for Drink Beer/Wine While Driving, and that he pled guilty to this offense.

6. During his naturalization process, Gariba did not disclose any other criminal conduct.

7. On or about December 6, 1999, Gariba was interviewed orally under oath to determine his eligibility for naturalization.

8. On or about December 6, 1999, on the basis of his written application and his testimony at the naturalization interview, the INS requested Gariba provide additional information. Specifically, the INS requested arrest and court records pertaining to his arrests in Carteret County, North Carolina (Case Nos.: 92-CR-001060 and 93-CR-007345) and Craven County, North Carolina (Case No.: 91-CR-6351).

9. On the basis of his written application, the additional documentation, and his testimony at the naturalization interview, the INS approved Gariba's application for naturalization on or about January 10, 2000.

10. On or about February 29, 2000, took the oath of allegiance and was granted United States citizenship. He was issued Certificate of Naturalization No. 23971942.

11. As an applicant for naturalization pursuant to section 316(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1427(a), Gariba was required to prove that he was a person of good moral character from on or about October 15, 1991, five years before he filed his application for naturalization, until February 29, 2000, the date on which he was admitted as a citizen of the United States (the "Statutory Period").

COUNTS

I. Gariba illegally procured his naturalization because he committed a crime involving moral turpitude during the Statutory Period.

12. Gariba could not have established that he was a person of good moral character during the Statutory Period because he committed a crime involving moral turpitude during such period.

13. An applicant shall be found to lack good moral character if the applicant has committed a crime involving moral turpitude during the Statutory Period. See INA §§ 101(f)(3), 212(a)(2)(A)(i)(I); 8 C.F.R. § 316.10(b)(2)(i).

14. On or about March 31, 2000, Gariba was arrested for multiple counts of Indecent Liberties with a Child, committed during the time period in which he was required to establish his eligibility for naturalization. On or about May 15, 2000, the State of North Carolina, in a felony complaint, charged Gariba with three (3) counts of Indecent Liberties with a Child (North Carolina General Statute No. 14-202.1). (File Nos. 00-CRS-84821, 00-CRS-84822, and 00-CRS-84823).

15. On or about July 17, 2000, after he was naturalized, Gariba pled guilty in court and was convicted of the three (3) counts of Indecent Liberties with a Child, in violation of North Carolina General Statute No. 14-202.1.

16. On or about July 17, 2000, the Guilford County Court sentenced Gariba to ten to twelve months' incarceration in Case No. 00-CRS-84821, and to ten to twelve months' incarceration, consecutive to the foregoing sentence, in Case Nos. 00-CRS-84822 and 00-CRS-84823 (which the court consolidated). The consecutive sentences were suspended, and Gariba was placed on supervised probation, with the requirement that he register as a sex offender.

17. The counts to which Gariba pled specified that the Indecent Liberties with a Child offenses were committed on June 3, 1998, July 3, 1998 and August 24, 1998, during the period when he was required to establish eligibility for naturalization.

18. Indecent Liberties with a Child, in which the perpetrator either (1) willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or (2) willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years, *see* North Carolina General Statute No. 14-202.1, is a crime involving moral turpitude.

II. Gariba illegally procured his naturalization because he could not establish the good moral character required to naturalize because he committed unlawful acts that adversely reflected upon his moral character.

19. Gariba was not eligible to naturalize and consequently illegally procured his naturalization. Gariba was ineligible to naturalize because he could not have established that he was a person of good moral character during the Statutory Period.

20. Naturalization is illegally procured where the naturalized citizen failed to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship. *See Fedorenko v. United States*, 449 U.S. 490, 506-07 (1981).

21. Gariba could not have established that he was a person of good moral character during the Statutory Period because he committed unlawful acts that adversely reflected upon his moral character. *See* 8 C.F.R. § 316.10(b)(3)(iii).

22. Unless there are extenuating circumstances, an applicant for naturalization is precluded from establishing good moral character if, during the Statutory Period, he commits unlawful acts that adversely reflect upon his moral character.

23. On three occasions during the Statutory Period—June 3, 1998, July 3, 1998, and August 24, 1998—Gariba, 31-32 years of age at the time of the offense, committed the crimes of Indecent Liberties with a Child, in violation of North Carolina General Statute No. 14-202.1, against a 10-year-old victim.

24. On or about March 31, 2000, Gariba was arrested for these offenses, and was thereafter charged by Indictment with the crime of Indecent Liberties With a Child, in violation of North Carolina General Statute No. 14-202.1

25. On or about July 17, 2000, Gariba pled guilty in the Guilford County Superior Court in Greensboro, North Carolina to three counts of Indecent Liberties With a Child, in violation of North Carolina General Statute No. 14-202.1.

26. Following his guilty plea, the Guilford County Superior Court sentenced Gariba to ten to twelve months' incarceration in Case No. 00-CRS-84821, and to ten to twelve months' incarceration, consecutive to the foregoing sentence, in Case Nos. 00-CRS-84822 and 00-CRS-84823 (which the court had consolidated).

27. The court suspended both sentences, and imposed sixty months' supervised probation and required Gariba to register as a sex offender.

28. Indecent Liberties With a Child is a class F Felony punishable by up to fifty-nine (59) months' incarceration, and is an unlawful act that adversely reflects upon an individual's moral character.

29. There were no extenuating circumstances that lessen Gariba's guilt for the crimes or mitigated the effect of his actions on his ability to establish good moral character.

30. Because Gariba committed unlawful acts affecting his moral character within the Statutory Period, he is precluded, as a matter of law, from establishing good moral character. Consequently, he illegally procured his naturalization.

III. Gariba procured his naturalization by willful misrepresentation and concealment of material facts.

31. Gariba procured his naturalization by willful misrepresentation and concealment of material facts, specifically concealing and misrepresenting the nature of his criminal activity during the naturalization process.

32. On or about December 6, 1999, the INS interviewed Gariba on his N-400, Application for Naturalization. Part 7, Question 15a, on the Form N-400 asked whether Gariba had knowingly committed any crime for which he had not been arrested. In response to Question 15a on the Form N-400, Gariba represented that he had not knowingly committed any crime for which he had not been arrested. This representation was false. In fact, Gariba had, on three separate occasions, between June and August 1998, committed the crime of Indecent Liberties With a Child. At the conclusion of his December 1999 in-person interview, Gariba signed his N-400 certifying under penalty of perjury that the information it contained was true and correct. The answers and information were not true. On or about March 31, 2000, Gariba was arrested for this offense, and was thereafter charged by Indictment with the crime of Indecent Liberties With a Child, and on July 17, 2000, he pled guilty in the Guilford County Superior Court in

Greensboro, North Carolina to three counts of Indecent Liberties With Child, in violation of North Carolina General Statute number 14-202.1.

33. Gariba's misrepresentation and concealment were material to determining his eligibility to naturalize because it would have had the natural tendency to influence the INS' decision to approve his application. In fact, Gariba's criminal activity precluded him from establishing good moral character.

34. Gariba therefore procured his naturalization by misrepresenting and concealing material facts—his criminal conduct.

CONCLUSION

35. Based on the facts outlined in the foregoing paragraphs, good cause exists to institute proceedings pursuant to section 340(a) of the INA, 8 U.S.C. § 1451(a), to revoke Gariba's citizenship, and to cancel his certificate of naturalization.

36. Gariba's last known residence is at [redacted] Terrace, Greensboro, North Carolina 27407, located within the jurisdiction of the Middle District of North Carolina.

DECLARATION IN LIEU OF JURAT
(28 U.S.C. § 1746)

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 20, 2018.

Daniel Hale
Deportation Officer
Department of Homeland Security
U.S. Immigration and Customs Enforcement
Greensboro, North Carolina

Exhibit B

258 60

File No. 00 CRS 84821

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

FILED
2000 MAY 15 PM 1:22

Film No.

STATE VERSUS

Defendant
ALWIN FAROUQ GARIBA

INDICTMENT

INDECENT LIBERTIES WITH CHILD

Date of Offense
June 3, 1999

Offense in Violation of G.S.
14-202.1

The jurors for the State upon their oath present that on or about the date of offense and in the county named above the defendant named above unlawfully, willfully and feloniously did take and attempt to take immoral, improper, and indecent liberties with [redacted], a child under the age of 16 years at the time, for the purpose of arousing and gratifying sexual desire. At the time the defendant was over 16 years of age and at least five years older than that child.

Signature of Prosecutor
Julia W. Heyer

WITNESSES

☒ A.T. MCHENRY - GPD 00-3115 ☐

☐ ☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

☑ **A TRUE BILL** by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

☐ NOT A TRUE BILL

Date MAY 15 2000

Signature of Grand Jury Foreman

NORTH CAROLINA, Guilford County
CERTIFIED TO BE A TRUE COPY OF ORIGINAL ON FILE IN THIS OFFICE
THIS Nov. 13 2009
Jessica Lagunas-Lopez C.S.C.

Youth

JH

256 58

File No. 0 CRS 84822

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

FILED
2000 MAY 15 PM 1:29

Film No.

STATE VERSUS

Defendant
ALWIN FAROUQ GARIBA

INDICTMENT

INDECENT LIBERTIES WITH CHILD

Date of Offense
July 3, 1999

Offense in Violation of G.S.
14-202.1

The jurors for the State upon their oath present that on or about the date of offense and in the county named above the defendant named above unlawfully, willfully and feloniously did take and attempt to take immoral, improper, and indecent liberties with [redacted], a child under the age of 16 years at the time, for the purpose of arousing and gratifying sexual desire. At the time the defendant was over 16 years of age and at least five years older than that child.

Signature of Prosecutor
Julia W. Heyer

WITNESSES

☒ A.T. MCHENRY - GPD ☐

☐ ☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

☑ **A TRUE BILL** by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

☐ NOT A TRUE BILL

Date MAY 15 2000

Signature of Grand Jury Foreman

CERTIFIED A TRUE COPY OF ORIGINAL ON FILE IN THIS OFFICE
Guilford County
THIS Nov 13 2009
Jessica Britton C.S.C.

Youth

JH

257

File No. 00 CRS 84823

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

Film No.

STATE VERSUS

Defendant
ALWIN FAROUQ GARIBA

INDICTMENT

INDECENT LIBERTIES WITH CHILD

Date of Offense
August 24, 1999

Offense in Violation of G.S.
14-202.1

The jurors for the State upon their oath present that on or about the date of offense and in the county named above the defendant named above unlawfully, willfully and feloniously did take and attempt to take immoral, improper, and indecent liberties with [redacted], a child under the age of 16 years at the time, for the purpose of arousing and gratifying sexual desire. At the time the defendant was over 16 years of age and at least five years older than that child.

Signature of Prosecutor
Julia W. Keyes

WITNESSES

☒ A.T. MCHENRY - GPD 00-3115 ☐

☐ ☐

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

☑ **A TRUE BILL** by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

☐ NOT A TRUE BILL

Date MAY 15 2000

Signature of Grand Jury Foreman

NORTH CAROLINA - Guilford County
CERTIFIED A TRUE COPY OF ORIGINAL
ON FILE IN THIS OFFICE
THIS Nov. 13, 2009
Jessica Bittle C.S.C.

Youth

JH

Exhibit C

STATE OF NORTH CAROLINA

Guilford County

GUILFORD COUNTY FILED JUL 17 2000 BY 1155 O'CLOCK A M. BY CLERK OF SUPERIOR COURT

File No. 00 CRS

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Name Of Defendant: Alwin Farouq Gariba

DOB: [redacted] | Age: 33 | Highest Level Of Education Completed: 12th

TRANSCRIPT OF PLEA

G.S. 15A-1022

The defendant, having offered a plea of guilty and being first duly sworn, makes the following answers to the questions set out below:

		Answers
1. Are you able to hear and understand me?	(1)	yes
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?	(2)	yes
3. At what grade level can you read and write?	(3)	12th
4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other Intoxicants?	(4a)	No
(b) When was the last time you used or consumed any such substance? (Two beers)	(4b)	Last Friday
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?	(5)	yes
6. (a) Have you and your lawyer discussed the possible defenses, if any, to the charges?	(6a)	yes
(b) Are you satisfied with your lawyer's legal services?	(6b)	yes
7. (a) Do you understand that you have the right to plead not guilty and be tried by a jury?	(7a)	yes
(b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you?	(7b)	yes
(c) Do you understand that by your plea(s) you give up these and your other constitutional rights relating to a trial by jury?	(7c)	yes
8. Do you understand that, if you are not a citizen of the United States of America, your plea(s) of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law? US Citizen	(8)	N/A
9. *(if applicable)* Do you understand that upon conviction of a felony that you automatically forfeit any licensing privileges as defined by G.S. 15A-1331A for the full term:		
☐ (a) *(FSA cases only occurring on or after May 1, 1994)* of the maximum sentence of imprisonment imposed at the time of conviction if: (1) you are offered a suspended sentence on condition that you accept probation and you refuse probation, or (2) your probation is revoked or suspended and the Court makes findings that you failed to make reasonable efforts to comply with the conditions of probation.	(9a)	N/A
☒ (b) *(Structured Sentencing cases committed on or after October 1, 1994)* of the period you are placed on probation if: (1) your probation is revoked or suspended, or (2) *(for offenses committed before 1/1/97)* you are offered a suspended sentence on condition you accept probation and you refuse probation. G.S. 15A-1331A(b).	(9b)	yes
10. Do you understand that you are pleading (guilty) (~~no contest~~) to the charges shown on the attached sheet, which carry the total punishments listed.	(10)	yes
11. Do you now personally plead (guilty) (no contest)?	(11)	yes
12. (a) *(if applicable)* Are you in fact guilty? of Two Counts	(12a)	yes
(b) *(if applicable)* Do you understand that upon your plea of ~~no contest~~ you will be treated as being guilty whether or not you admit your guilt?	(12b)	
(c) *(if applicable)* (Alford Plea)		
(1) Do you now consider it to be in your best interest to plead guilty? As to 3rd count	(12c1)	yes
(2) Do you understand that upon your "Alford Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty?	(12c2)	yes
13. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval?	(13)	yes

NORTH CAROLINA - Guilford County
CERTIFIED A TRUE COPY OF ORIGINAL ON FILE IN THIS OFFICE
THIS Nov. 13 2009
Deputy/Assistant C.S.C.

AOC-CR-300, Rev. 10/97

(Over)

14. *(if applicable)* The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea: *(See attachment for additional plea arrangements, including voluntary dismissals.)* **Answers**

In case 00 CRS 84821, the defendant shall receive a 10-12 month sentence, suspended.

In cases 00 CRS 84822 + 84823, these cases shall be consolidated with a sentence of 10-12 mo to run at the expiration of 00 CRS 84821 - this sentence suspended to be on supervised probation.

(a) Is this correct as being your full plea arrangement? (14a) yes

(b) Do you now personally accept this arrangement? (14b) yes

15. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes? (15) No

16. Do you enter this plea of your own free will, fully understanding what you are doing? (16) yes

17. Do you have any questions about what has just been said to you or about anything else connected with your case? (17) No

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME		Date July 17, 2000
Date JUL 17 2000	Signature	Signature Of Defendant Alwin F Garibe
☐ Deputy CSC ☒ Assistant CSC ☐ Clerk Of Superior Court		Name Of Defendant (Type Or Print) Alwin Farouk Garibe

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which the defendant is pleading.

Date	Name Of Lawyer For Defendant (Type Or Print)	Signature Of Lawyer For Defendant
7-17-00	Steve Allen	Steve Allen

CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.

Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
7-17-00	Julia Hejazi	Julia W. Hejazi

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the District Attorney, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. The the defendant is satisfied with his/her lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
7/17/00	Steve A Balog	Steve A Balog

AOC-CR-300, Side Two, Rev. 10/97

STATE VERSUS

File No. 00 CRS 84821-23

Name Of Defendant: Alvin Jerovy Gaudia

PLEAS

Plea*	File Number	Count No.(s)	Offense(s)	Date Of Offense	G.S. No.	F/M	CL	Maximum Punishment
G	00CRS84821	1	Indec. Liberties	6-3-99	14-202.1	F	F	59 MO
G	00CRS84822	1	Indec. Liberties	8-23-99	"	F	F	59 MO
G	00CRS84823	1	Indec. Liberties	8-24-99	"	F	F	59 MO.

GUILFORD COUNTY
FILED
JUL 17 2000
1155
CLERK OF SUPERIOR COURT

*G = Guilty
NC = No Contest

TOTAL MAXIMUM PUNISHMENT: 177 MO.

MANDATORY MINIMUM FINES & SENTENCES *(if any)*

AOC-CR-300, Page Two, Rev. 6/97

(Over)

DISMISSALS PURSUANT TO PLEA ARRANGEMENT

File No.	Count No.(s)	Offense(s)

CERTIFICATION BY PROSECUTOR

The undersigned prosecutor enters a dismissal to the above charges pursuant to a plea arrangement shown on the Transcript Of Plea attached.

Date	*Name Of Prosecutor (Type Or Print)*	*Signature Of Prosecutor*

Exhibit D

CORRECTED

STATE OF NORTH CAROLINA

Guilford County Greensboro Seat of Court

FILED 2001 FEB 13 AM 9:57 GUILFORD COUNTY, C.S.C. BY

File No. 00CRS84821 51

In The General Court Of Justice
Superior Court Division

NOTE: *(This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-310 for DWI offense(s).)*

STATE VERSUS

JUDGMENT SUSPENDING SENTENCE - FELONY
☒ **IMPOSING AN INTERMEDIATE PUNISHMENT**
☐ **IMPOSING A COMMUNITY PUNISHMENT (STRUCTURED SENTENCING)**
G.S. 15A-1341, -1342, -1343, -1343.2, -1346

Name Of Defendant	Race	Sex	DOB
Gariba, Alwin, Farouq	H	M	[redacted]

Attorney For State: Hejazi, Julia

☐ Def. Found Not Indigent ☐ Def. Waived Attorney

Attorney For Defendant: Allen, Steve ☐ Appointed ☒ Retained

The defendant ☒ pled guilty to: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.
00CRS84821	51	Indecent Liberties with Child	06/03/1998	14-202.1	F	F

The Court:
☒ 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 0
☐ 2. makes no prior record level finding because none is required.

PRIOR RECORD LEVEL: ☒ I ☐ III ☐ V ☐ II ☐ IV ☐ VI

The Court (NOTE: *Block 1 or 2 MUST be checked.*):
☐ 1. makes no written findings because the prison term imposed is within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).
☒ 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
☐ 3. makes the Findings of Extraordinary Mitigation set forth on the attached AOC-CR-606.
☐ 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
☐ 5. finds enhanced punishment from a Class A1 or Class 1 misdemeanor to a Class I felony.
☐ G.S. 90-95(e)(3) (drugs); ☐ G.S. 14-3(c) (hate crime).
☐ 6. imposes the punishment pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
☐ 7. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
☐ 8. finds the defendant is classified as a sexually violent predator. G.S. 14-208-20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of 010 months | for a maximum term of 012 months | in the custody of the N.C. DOC.

☐ This sentence shall run at the expiration of sentence imposed in file number _____

The defendant shall be given credit for -1- days spent in the confinement prior to the date of this Judgment as a result of this charge(s) to be applied toward the ☒ sentence imposed above. ☐ imprisonment required for special probation set forth on AOC-CR-603, Page Two.

SUSPENSION OF SENTENCE

☒ With ☐ Without* the consent of the defendant and subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on ☒ supervised ☐ unsupervised probation for 060 months.
(*NOTE: *For offenses committed on or after January 1, 1997, per repeal of 15A-134(c), defendant's consent is not needed.*)

☒ 1. The Court finds that a ☒ longer ☐ shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
☐ 2. The Court finds that it is **NOT** appropriate to delegate to the Division of Adult Probation and Parole in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.
☐ 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.
☐ 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.
(NOTE: *List file number, date, county and court in which prior sentence imposed.*)

File Number	Offense	County	Court	Date

☐ 5. The defendant shall comply with the conditions set forth in file number _____

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, pursuant to a schedule ☒ determined by the probation officer. ☐ set out by the court as follows: _____

DEFENDANT TO BE RESPONSIBLE FOR VICTIM'S COUNSELING

Costs	Fine	Restitution*	Attorney's Fee	Community Service Fee
$ 116.00	$ 100.00	$ -0-	$ -0-	$ -0-

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-621, which is incorporated herein by reference.

☐ All payments received by the Clerk shall be distributed pro rata among the persons entitled to restitution in this priority: first among all G.S. 7A-304(d) priorities ☐ and before payment of community service and probation supervision fees.
☐ Upon payment of the "Total Amount Due", the probation officer may transfer the defendant to unsupervised probation.

NORTH CAROLINA, Guilford County
CERTIFIED A TRUE COPY OF ORIGINAL ON FILE IN THIS OFFICE
THIS 3 DAY OF 2004
Jessica Bryan C.S.C.

3/8/01 cc P/O

AOC-CR-603, Rev. 2/2000
© 2000 Administrative Office of the

Material opposite unmarked squares is to be disregarded as surplusage.
(Over)

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court.

If the defendant is on supervised probation, the defendant shall also: (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons.

If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-262(c)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

☐ 11. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.

☐ 12. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision: ☐ stolen goods ☐ controlled substances ☐ contraband ☐ _____.

☐ 13. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.

☐ 14. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.

☐ 15. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.

☐ 16. Complete _____ hours of community or reparation service during the first _____ days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b). ☐ pursuant to the schedule set out under monetary conditions above. ☐ within _____ days of this Judgment and before beginning service.

☒ 17. Report for initial evaluation by CORNERSTONE PSYCHOLOGICAL SERVICES, participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.

☒ 18. Not assault, communicate with, be in the presence of, or be found in or on the premises of see #19.

☒ 19. Other:

omit #8;continuance of #18 minor children unless as consented to in writing by the child's mother or a court order; register as a sex offender

☐ 20. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

☐ 1. It is ORDERED that the Clerk deliver **two** certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

☐ 2. The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth in form AOC-CR-350.

SIGNATURE OF JUDGE

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*
07/17/2000	STEVE A. BALOG	Steve A Balog

CERTIFICATION

I certify that this Judgment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

☐ 1. Appellate Entries (AOC-CR-350)

☐ 2. Judgment Suspending Sentence, Page Two (Special Conditions Of Probation - Intermediate Punishments - Contempt (AOC-CR-603, Page Two)

☐ 3. Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)

☐ 4. Extraordinary Mitigation Findings (AOC-CR-606)

☐ 5. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)

Date Of Certification	*Signature* SEAL
Date Certified Copies Delivered To Sheriff	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Superior Clerk of Court*

Material opposite unmarked squares is to be disregarded as surplusage.

STATE VERSUS

File No.

00CRS 84821 51

Name Of Defendant

Gariba, Alwin, Farouq

SPECIAL CONDITIONS OF PROBATION - INTERMEDIATE PUNISHMENTS - CONTEMPT

NOTE: Use this page in conjunction with AOC-CR-603, "Judgment Suspending Sentence - Felony"; or AOC-CR-604, "Judgment Suspending Sentence - Misdemeanor(s)"; or AOC-CR-609, "Order On Violation Of Probation Or On Motion To Modify".

In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following special conditions of probation and conditions of special probation, which are defined as intermediate punishments by G.S. 15A-1340.11(6).

☐ 1. ☐ **Special Probation - G.S. 15A-1351** ☐ **Contempt - G.S. 15A-1344(e1) and 5A-11(a)**

☐ a. Serve an active term of____ ☐ days ☐ months ☐ hours in the custody of ☐ N.C. DOC. ☐ Sheriff of this County.

☐ (1) The defendant shall report in a sober condition to begin serving his/her term on:

Day	Date	Hour	☐ AM ☐ PM

and shall remain in custody until:

Day	Date	Hour	☐ AM ☐ PM

☐ (2) The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next_____ consecutive weeks, and shall remain in custody during the same hours each week.

☐ (3) The defendant shall serve the active term above as an inpatient in_____ and shall follow the rules of that facility until discharged and not leave its premises except as authorized under those rules.

☐ (4) This sentence shall be served at the direction of the probation officer within_____ ☐ day ☐ months of this Judgment.

☐ (5) Pay jail fees.

☐ (6) Work release is recommended.

☐ (7) Substance Abuse Treatment Unit is recommended. G.S. 15A-1351(h).

☐ (8) Other:

FILED
2001 FEB 13 AM 10:
GUILFORD COUNTY C.S.C.
BY

☐ b. **IMPACT** - Submit as directed by the probation officer to a medical evaluation by a physician approved by the officer and, if certified to be medically fit for participation in the Intensive Motivation Program of Alternative Correctional Treatment (IMPACT), further submit, as ordered by the officer, on the date and at the place specified, to imprisonment in a facility for youthful offenders for a minimum of 90 days or a maximum of 120 days from that date, and abide by all rules and regulations as provided in conjunction with the IMPACT program; provided, if, within days from the date of this Judgment, the defendant is not certified to be medically fit for program participation or for any other reason is not ordered to submit to imprisonment as provided above then, the defendant shall reappear before the Court as directed by the probation officer for a hearing to determine what modifications, if any, should be made to this Judgment.

☐ 2. **House Arrest With Electronic Monitoring**

☐ a. Be assigned to the Electronic House Arrest Program for a period of_____ ☐ days ☐ months, submit to electronic monitoring and abide by all rules, regulations and directions of the program until discharged.

☐ b. Other conditions:

NORTH CAROLINA - Guilford County
CERTIFIED A TRUE COPY OF ORIGINAL
ON FILE IN THIS OFFICE
THIS Nov 13 2009
Jessica Butler C.S.C.

Material opposite unmarked squares to be disregarded as surplusage.
(Over)

☒ **3. Intensive Supervision Program**

Be assigned to the Intensive Supervision Program for a period of 006 months *(not less than six months)*, obey all rules, regulations and directions of the program until discharged, and

a. Submit at reasonable times to warrantless searches by a probation officer of the defendant, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the

☒ stolen goods ☒ controlled substances ☒ contraband ☒ firearms.

b. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.

c. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the probation officer.

d. Complete not less than waived hours or more than waived hours of community or reparation service, as determined by the probation officer, and under the direction of the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b) ☐ within waived days of this Judgment and before beginning service.

e. Participate in any evaluation, counseling, treatment or education program as directed by the probation officer, faithfully keep all scheduled appointments, and abide by all rules, regulations and directions of each program.

f. not be away from the defendant's place of residence between the hours of ** p.m. ** a.m. unless authorized in writing by the probation officer.

g. Not leave the defendant's county of residence without prior approval of the probation officer.

h. Other:
** curfew to be set by intensive probation officer

☐ **4. Residential Program**

Attend or reside in _____ residential program for a period of _____ ☐ days, ☐ months, and abide by all rules and regulations of that program.

☐ **5. Day-Reporting Center**

Report as directed by the probation officer to _____ for a period of _____ ☐ days, ☐ months, and abide by all rules and regulations of that program. The Court finds that this condition is reasonably related to the defendant's rehabilitation.

☐ **6. Community Penalties Plan**

The defendant is placed on supervised probation as set forth on the attached AOC-CR-603 or CR-604 pursuant to a community penalties plan.

☐ 7. Other special conditions of probation which the Court finds are reasonably related to the defendant's rehabilitation.

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*
07-17-2000	STEVE A. BALOG	Steve A Balog

I have received a copy of this Page Two of this Judgment which contains additional conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing.

Date	*Signature Of Defendant*	*Witnessed By*

Exhibit E

U.S. Department of Justice
Immigration and Naturalization Se[redacted]

D8[redacted]

OMB #1115-0009
Application for Naturalization

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial
GARIBA	ALWIN	F (1) Farouk

U.S. Mailing Address - Care of [redacted] ALWIN GARIBA DR. GREENSBORO N/C 27407

Street Number and Name	Apt. #
KILBOURNE DR	2605

City	County
GREENSBORO	GUILFORD

State	ZIP Code
NORTH CAROLINA	27407

Date of Birth (month/day/year)	Country of Birth
[redacted]	GUYANA

Social Security #	A #
[redacted]	[redacted]

Part 2. Basis for Eligibility *(check one)*.

a. ☑ I have been a permanent resident for at least five (5) years.
b. ☐ I have been a permanent resident for at least three (3) years and have been married to a United States Citizen for those three years.
c. ☐ I am a permanent resident child of United States citizen parent(s).
d. ☐ I am applying on the basis of qualifying military service in the Armed Forces of the U.S. and have attached completed Forms N-426 and G-325B
e. ☐ Other. (Please specify section of law) _____

Part 3. Additional information about you.

Date you became a permanent resident (month/day/year)	Port admitted with an immigrant visa or INS Office where granted adjustment of status.
August 02, 1985	Miami

Citizenship: Guyanese

Name on alien registration card (if different than in Part 1): Gariba Alwin Farouk

Other names used since you became a permanent resident (including maiden name): None (2)

Sex	Height	Marital Status:
☑ Male ☐ Female	5'9"	☐ Single ☑ Married ☐ Divorced ☐ Widowed

Can you speak, read and write English? (3) ☐ No ☑ Yes.

Absences from the U.S.:

Have you been absent from the U.S. since becoming a permanent resident? (4) ☑ No ☐ Yes. (5)

If you answered **"Yes"**, complete the following. Begin with your most recent absence. If you need more room to explain the reason for an absence or to list more trips, continue on separate paper.

Date left U.S.	Date returned	Did absence last 6 months or more?	Destination	Reason for trip
5/99 (6)	5/99 (7)	☐ Yes ☑ No (8)	Guyana (9)	Vacation (10)
		☐ Yes ☐ No		
		☐ Yes ☐ No		
		☐ Yes ☐ No		
		☐ Yes ☐ No		
		☐ Yes ☐ No		

Form N-400 (Rev. 07/17/91)N

Continued on back.

FOR INS USE ONLY

Returned	Receipt
3981 001	10/15/96 9:31 N-400 95.00
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

02/26/1998 SRC-98-106-50359 SRCJAM09

At interview
☐ request naturalization ceremony at court

Remarks
FD-258 7/0326 2/14/98
arc
NC N/C

Action
APPROVED
INS DISTRICT DIRECTOR
JAN 10 2000
Recommended by:
OLT 7499

To Be Completed by Attorney or Representative, if any
☐ Fill in box if G-28 is attached to represent the applicant
VOLAG#
ATTY State License #

Part 4. Information about your residences and employment.

A. List your addresses during the last five (5) years or since you became a permanent resident, whichever is less. Begin with your current address. If you need more space, continue on separate paper:

Street Number and Name, City, State, Country, and Zip Code	Dates (month/day/year) From	Dates (month/day/year) To
[redacted] DR. GREENSBORO N/C 27407	9/27/96	10/15/96
[redacted] RD GREENSBORO N/C 27409	6/8/94	9/27/96
[redacted] M.H.P MOREHEAD N/C 28557	8/28/89	6/8/94

B. List your employers during the last five (5) years. List your present or most recent employer first. If none, write "None". If you need more space, continue on separate paper.

Employer's Name	Employer's Address: Street Name and Number - City, State and ZIP Code	Dates Employed (month/day/year) From	Dates Employed (month/day/year) To	Occupation/position
OLD DOMINION FREIGHT.	P.O BOX 2006 HIGH POINT N/C 27261	5/3/96	~~10/15/96~~ 1/99 (11)	MECHANIC
C.I. FLEET	2805 HIATT ST GREENSBORO N/C 27403	6/9/94	5/3/96.	MECHANIC
TURNERS TEXACO	34th ST HWY 70 EAST N/C 28557. (13)	3/16/92	6/8/94	MECHANIC
Sedgefield (12)	High Point/GSO, NC	1/99 (14)	Present (15)	" (16)

Part 5. Information about your marital history.

A. Total number of times you have been married 1. If you are now married, complete the following regarding your husband or wife.

Family name [redacted]	Given name [redacted]	Middle initial D
Address [redacted] Greensboro NC 27407		
Date of birth (month/day/year) [redacted] 169	Country of birth LAGOS Nigeria	Citizenship U.S. Citizen
Social Security# [redacted]	A# (if applicable) N/A	Immigration status (If not a U.S. citizen) N/A

Naturalization (If applicable) (month/day/year) N/A Place (City, State)

If you have ever previously been married or if your current spouse has been previously married, please provide the following on separate paper: Name of prior spouse, date of marriage, date marriage ended, how marriage ended and immigration status of prior spouse.

Part 6. Information about your children.

B. Total Number of Children [redacted]. Complete the following information for each of your children. If the child lives with you, state "with me" in the address column; otherwise give city/state/country of child's current residence. If deceased, write "deceased" in the address column. If you need more space, continue on separate paper.

Full name of child	Date of birth	Country of birth	Citizenship	A - Number	Address
[redacted]					

Continued on next page

Continued on back

Part 7. Additional eligibility factors.

Please answer each of the following questions. If your answer is **"Yes"**, explain on a separate paper.

1. Are you now, or have you ever been a member of, or in any way connected or associated with the Communist Party, or ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person, or ever advocated, taught, believed in, or knowingly supported or furthered the interests of communism? ☐ Yes ☑ No
2. During the period March 23, 1933 to May 8, 1945, did you serve in, or were you in any way affiliated with, either directly or indirectly, any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, citizen unit of the Nazi party or SS, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, detention camp or transit camp, under the control or affiliated with:
   a. The Nazi Government of Germany? ☐ Yes ☑ No
   b. Any government in any area occupied by, allied with, or established with the assistance or cooperation of, the Nazi Government of Germany? ☐ Yes ☑ No
3. Have you at any time, anywhere, ever ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion? ☐ Yes ☑ No
4. Have you ever left the United States to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☑ No
5. Have you ever failed to comply with Selective Service laws? ☐ Yes ☑ No

   If you have registered under the Selective Service laws, complete the following information:

   Selective Service Number: N/A 66-185835-E Date Registered: N-A (24) 6/2/87

   If you registered before 1978, also provide the following:

   Local Board Number: N/A Classification: N-A
6. Did you ever apply for exemption from military service because of alienage, conscientious objections or other reasons? ☐ Yes ☑ No
7. Have you ever deserted from the military, air or naval forces of the United States? ☐ Yes ☑ No
8. Since becoming a permanent resident, have you ever failed to file a federal income tax return? ☐ Yes ☑ No
9. Since becoming a permanent resident, have you filed a federal income tax return as a nonresident or failed to file a federal return because you considered yourself to be a nonresident? ☐ Yes ☑ No
10. Are deportation proceedings pending against you, or have you ever been deported, or ordered deported, or have you ever applied for suspension of deportation? ☐ Yes ☑ No
11. Have you ever claimed in writing, or in any way, to be a United States citizen? ☐ Yes ☑ No
12. Have you ever:
    a. been a habitual drunkard? ☐ Yes ☑ No
    b. advocated or practiced polygamy? ☐ Yes ☑ No
    c. been a prostitute or procured anyone for prostitution? ☐ Yes ☑ No
    d. knowingly and for gain helped any alien to enter the U.S. illegally? ☐ Yes ☑ No
    e. been an illicit trafficker in narcotic drugs or marijuana? ☐ Yes ☑ No
    f. received income from illegal gambling? ☐ Yes ☑ No
    g. given false testimony for the purpose of obtaining any immigration benefit? ☐ Yes ☑ No

    never voted (25) never registered
13. Have you ever been declared legally incompetent or have you ever been confined as a patient in a mental institution? ☐ Yes ☑ No
14. Were you born with, or have you acquired in same way, any title or order of nobility in any foreign State? ☐ Yes ☑ No
15. Have you ever:
    a. knowingly committed any crime for which you have not been arrested? ☐ Yes ☑ No
    b. been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance excluding traffic regulations? ☐ Yes ☑ No

    ~~No arrests~~ Change name. (26) (27) (28) See criminal

(If you answer yes to 15, in your explanation give the following information for each incident or occurrence the **city**, **state**, and **country**, where the offense took place, the **date** and **nature** of the offense, and the **outcome** or **disposition** of the case).

Mark cks.

Part 8. Allegiance to the U.S.

If your answer to any of the following questions is **"NO"**, attach a full explanation:

1. Do you believe in the Constitution and form of government of the U.S.? ☑ Yes ☐ No
2. Are you willing to take the full Oath of Allegiance to the U.S.? (see instructions) ☑ Yes ☐ No
3. If the law requires it, are you willing to bear arms on behalf of the U.S.? ☑ Yes ☐ No
4. If the law requires it, are you willing to perform noncombatant services in the Armed Forces of the U.S.? ☑ Yes ☐ No
5. If the law requires it, are you willing to perform work of national importance under civilian direction? ☑ Yes ☐ No

Continued on back

Part 9. Memberships and organizations.

A. List your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place. Include any military service in this part. If none, write "none". Include the name of organization, location, dates of membership and the nature of the organization. If additional space is needed, use separate paper.

NONE

Part 10. Complete only if you checked block " C " in Part 2.

How many of your parents are U.S. citizens? ☑ One ☐ Both (Give the following about one U.S. citizen parent:)

Family Name Gavila | Given Name [illegible] | Middle Name

Address

Basis for citizenship:
☐ Birth
☑ Naturalization Cert. No.

Relationship to you (check one): ☑ natural parent ☐ adoptive parent ☐ parent of child legitimated after birth

If adopted or legitimated after birth, give date of adoption or, legitimation: *(month/day/year)* _____

Does this parent have legal custody of you? ☐ Yes ☐ No

(Attach a copy of relating evidence to establish that you are the child of this U.S. citizen and evidence of this parent's citizenship.)

Part 11. Signature. *(Read the information on penalties in the instructions before completing this section).*

I certify or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature Alvin F. Gavila **Date** 10/15/96

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for naturalization and this application may be denied.*

Part 12. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature **Print Your Name** **Date**

Firm Name and Address

DO NOT COMPLETE THE FOLLOWING UNTIL INSTRUCTED TO DO SO AT THE INTERVIEW

I swear that I know the contents of this application, and supplemental pages 1 through 0, that the corrections, numbered 1 through 28, were made at my request, and that this amended application, is true to the best of my knowledge and belief.

Alvin Farouk Gavila
(Complete and true signature of applicant)

Subscribed and sworn to before me by the applicant.

Linda Martin Hutton FEB 06 1998
(Examiner's Signature) *Date*

*U.S. Government Printing Office: 1992 — 312-328/61866

Exhibit F

THE UNITED STATES OF AMERICA

No. 23971942

CERTIFICATE OF NATURALIZATION

INS Registration No. A[redacted]492

Personal description of holder as of date of naturalization:

Date of birth: [redacted]

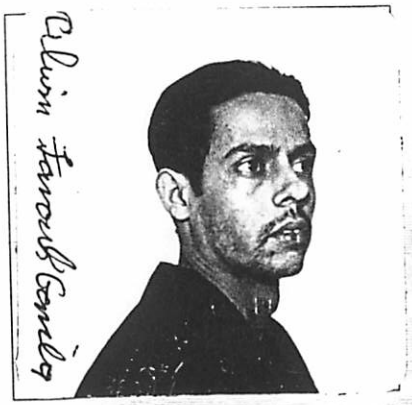
Sex: MALE

Height: 5 feet 09 inches

Marital status: MARRIED

Country of former nationality:

GUYANA



I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

(Complete and true signature of holder)

Be it known that, pursuant to an application filed with the Attorney General

at: CHARLOTTE, NC

The Attorney General having found that:

ALWIN FAROUK GARIBA

then residing in the United States, intends to reside in the United States when so required by the Naturalization Laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

U.S. IMMIGRATION & NATURALIZATION SERVICE

at: CHARLOTTE, NC on: FEB 29 2000

that such person is admitted as a citizen of the United States of America.

Doris Meissner

Commissioner of Immigration and Naturalization

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

DEPARTMENT OF JUSTICE

FORM N-550 REV. 6-91