

Exhibit 2

to Plaintiffs' Further Supplemental Brief in
Support of Plaintiffs' Motion for Summary
Judgment

Case No.: 1:20-cv-01104-ESH

U.S. NAVY
Guide to
Naturalization
Applications
Based upon
Qualifying Military
Service
(8 U.S.C. 1439 and 1440)

1. Introduction. The Department of Defense and the Citizenship and Immigration Services (USCIS) examined ways to streamline the processing of certain naturalization (citizenship) applications for military servicemembers. Several changes have been implemented which should substantially reduce the time for processing applications. Consequently, much of the application processing will now be done at the servicemember's command, and all naturalization applications based upon qualifying military service will be sent to a unified processing center, regardless of the applicant's residence. The USCIS has dedicated a point of contact to discuss issues regarding specific applications with a single representative from each of the Armed Forces. The Legal Assistance Division, Office of the Judge Advocate General, (OJAG-Code 16), is the Navy representative for immigration matters.

- a. This Guide outlines the procedures for processing naturalization applications for Navy service members who submit an application for naturalization based upon qualifying military service, and is intended to supplement the Citizenship and Immigration Services' *A Guide to Naturalization (Form M-476)*. Information and forms regarding the naturalization process may be obtained from the USCIS Website at <http://uscis.gov/graphics/lawsregs/handbook/hnmanual.htm>. <http://uscis.gov/graphics/services/natz/MilitaryBrochurev7.pdf> is a brochure that has been developed by USCIS in order to provide the servicemember with some basic information about the laws that govern citizenship for military personnel and the process they should follow to begin their journey to citizenship.
- b. Applications for naturalization that are not based upon qualifying military service are not substantially affected by these changes.
- c. The service member applicant's command is the primary source of assistance for service members who intend to submit citizenship applications. With the aid of the command representative, PSD/personnel offices, Command/Staff Judge Advocates, and/or Naval Legal Service Offices, the applicant will complete the application for naturalization and the command will forward it to the USCIS.

2. Overview. There are a number of categories of persons who are eligible to apply for United States citizenship. The changes implemented by the USCIS only apply to the following two categories of applicants:

- a. Those who have been in the United States Armed Forces and have served for at least 1 year; (8 U.S.C. §1439) and
- b. Those who have been in the United States Armed Forces and have served during periods of military hostilities. (8 U.S.C. §1440)
- c. The first category permits naturalization for persons who have served honorably in the Armed Forces of the United States an aggregate of at least one (1) year of active, honorable service in the US military **at the time of submitting the application. There is NO provision for "early filing" under this section. (Early filings will be rejected)**

Such applicants may be naturalized without having to fulfill the continuous residency requirements that apply to other application categories, provided that such applications are filed while the applicant is still in the military service or within six months after termination of such service. The applicant must also be a lawful permanent resident of the United States at the time of the examination, be of good moral character, and attached to the principles of the Constitution of the United States. (See 8 U.S.C. § 1439(a) *et seq.*)

- d. The second category authorizes naturalization of persons who have honorably served in the Armed Forces of the United States during periods of military hostilities (including any period as may be designated by the President in an Executive Order pursuant to 8 Code of Federal Regulations, 329(a). In such cases, the applicant must satisfy the permanent residence requirement by either: (1) lawful admission to the United States after enlistment or induction into the Armed Forces of the United States; or (2) the applicant need only have enlisted or re-enlisted in the United States the Canal Zone, America Samoa, or Swains Island, or, on or after November 18, 1997, on board a public vessel owned or operated by the United States for noncommercial service, whether or not he has been lawfully admitted to the United States for permanent residence.

(See 8 U.S.C. § 1440(a) *et seq.*)

- e. In both instances, the applicant must submit a completed Form N-400, two photographs, a completed Form N-426 (“Request for Certification of Military or Naval Service”), receipt showing that they have had their fingerprints taken by USCIS, and a completed Form G-325B (“Biographic Information). Once the application and allied documents are mailed and processed, the applicant must submit to a USCIS interview, and pass an English and civics test. Afterwards, if the application for naturalization is granted, the applicant will be scheduled to take the Oath of Allegiance to the United States.

3. Obtaining the Forms. The applicant should obtain “A Guide to Naturalization” (Form M-476) which provides information helpful to the applicant in understanding the process. The primary application is Form N-400 (“Application for Naturalization”). The applicant will also need the Form N-426 (“Request for Certification of Military or Naval Service”), and the Form G-325B (“Biographic Information”). These forms are available by calling the USCIS Forms Line (1-800-870-3676) and requesting the “Military Packet”. These forms are available at the USCIS Website at <http://uscis.gov/graphics/formsfee/forms/index.htm>. Forms should also be available at OJAG (Code 16), Naval Legal Service Offices and Family Service Centers.

4. Completing the Forms. It is vital that all forms be thoroughly completed before submission. Incomplete forms are returned by the USCIS, causing substantial delays in the application process.

- a. Form N-400 (“Application for Naturalization.”). Check box “c” in Part 2 of the Form N-400, indicating that the application is on the basis of qualifying military service. The answers provided on this application will be reviewed at the applicant’s interview.
- b. Form G-325B (Biographical Data). The applicant will fill out the entire form, including their rate. In the lower right in the area labeled "INS USE (Office of Origin)": write for

Office Code: "NSC military", write for Type of Case: "N400", and then write the date the form is filled out.

- c. Form N-426 ("Request for Certification of Military or Naval Service.") Once submitted, the local service record holder should read the block entitled "Instructions to Certifying Officer" on page one of the form.

This two-sided form must be completed on both sides. The applicant completes all items and must sign on page one; and then submit the partially completed Form N-426 to their local service record holder for completion. The certifying officer must complete all pertinent blocks on page two, verifying the applicant's military service. **When verifying the applicant's military service the certifying officer MUST state in block #5 whether the servicemember is serving honorably. If separated, state whether under honorable conditions".** The certifying officer must use those exact words. While additional information regarding service may be attached to Form N-426, **the certifying officer must sign and apply their official command seal/stamp where indicated at the bottom of page two of form N-426.**

Simply attaching form DD214 to an uncertified Form N-426 or a statement of service *is not acceptable*. Completion requires that they answer all questions on the back. The completion must include a legible name, i.e. a stamp that states who is signing and after signing the command **MUST** use their seal to certify the form. When completed, the command will be notified, and the command representative will pick up the form.

PLEASE HELP FACILITATE THESE CASES BY COMPLETING ALL BLOCKS ON PAGE TWO THAT RELATE TO THE APPLICANT;

1. CHECK THE BOX "NAME AS SHOWN IN RECORDS" AND THEN PUT THE APPLICANTS NAME ON THE LINE
2. ENTERED SERVICE AT: (*WHERE*)
3. LIST EACH ENLISTMENT ON A SEPARATE LINE. FOR EACH ENLISTMENT LIST ON: (*DATE*) SERVED TO: (*EOAS DATE; IF STILL ACTIVE WRITE "PRESENT"*)
4. BRANCH OF SERVICE
5. INDICATE LEVEL OF SERVICE –(*HONORABLE OR LESS THAN HONORABLE --PROVIDE DETAILS*)
6. COMPLETE ITEMS 6 THROUGH 12 AS APPLICABLE
7. SIGN AND APPLY SEAL/STAMP.

- c. Form G-325B (Biographic Information). The Command Representative will mail **only** the original Form G-325B to:

**OFFICE OF THE JUDGE ADVOCATE GENERAL
LEGAL ASSISTANCE DIVISION (CODE 16)
1322 PATTERSON AVE SE STE 3000
WASHINGTON NAVY YARD DC 20374-5066**

The resulting DCII report will be attached to the Form G-325B, and mailed directly to Lincoln by OJAG (Code 16).

d. Once the N-426 and G-325B are complete, the original packet **should not** be returned to the military member, this is required in order to assure the integrity of the data. The servicemember should be given a copy of the complete package. The command POC is responsible for mailing the completed packet directly to the Nebraska Service Center. Also, anyone filing under Sec. 316 or 319 (have 5/3 years lawful permanent residence but not 1 year military service) should submit the G325B, completed ONLY on the front of the form, to the service center having jurisdiction over place of residence. The receiving service center will take care of getting the G325B cleared.

5. Obtain Two Photographs. Every applicant is required to furnish two identical color photographs of him/herself. The photos must have a glossy finish and shall be at least 40mm (1 9/16 inches) in height by 35mm (1 3/8 inches) in width. USCIS Form M-378 provides more detail, this form can be found at http://uscis.gov/graphics/publicaffairs/newsrels/04_08_02Photo_flyer.pdf. The photos must also be:

- a. You should include two color photographs with your application. If you do not send photographs with your application, USCIS will return the application to you. The photo should show a clear, full face, front view, eyes open full face of the customer. The customer should be in normal street attire, without hat or dark glasses against a plain white or off-white background. The customer should have a natural expression, mouth closed, and looking directly ahead. Photos in which the face of the person being photographed is not in focus will not be accepted. Brightness and contrast should be adjusted to present the subject and background accurately. Photos without proper contrast or color may obscure unique facial features. Color should reproduce natural skin tones.
- b. Be sure there is enough white space in the margin of the photographs so you will have room to sign your full name if your application is approved.
- c. taken within 30 days of the date they are sent to USCIS; and
- d. You should print your name and "A"– number lightly in pencil on the back of each photograph
- e. The image of the person
 - The customer's head, measured from the bottom of the chin to the top of the hair, should be between 1 inch and 1-3/8 inches. The head should be centered in the photo. The head of the person being photographed should not be tilted up, down or to the side. It should cover about 50% of the area of the photo.
 - Facial features should be clearly evident in the photo
 - Unless worn daily for religious reasons, all hats or headgear should be removed for the photo. In all cases, no item or attire should cover or otherwise obscure any part of the face.

- Eyeglasses worn on a daily basis can be worn for the photo. However, there should be no reflections from the eyeglasses that obscures the eyes. Dark glasses or nonprescription glasses with tinted lenses are not acceptable unless you need them for medical reasons. A medical certificate may be required.
- Uniforms should not be worn in photographs except in the case of religious attire that is worn daily. Otherwise, normal street attire should be worn.

e. Resolution and Printing Quality

- High-resolution photography and printing are strongly recommended
- Both conventional and digital photography are acceptable, and conventional or digital printing methods may be used
- Resulting print should exhibit a continuous tone quality regardless of the print method used (dye sublimation, ink jet, laser, etc.)
- Digitally printed photos should be produced without discernible pixels or dot patterns
- Fine facial features should be discernible
- The entire face should be in focus

6. Collect Necessary Documents. The applicant will need to include copies of several documents with the application. Use the document checklist on Form M-477 (page 52 of the online version of “A Guide to Naturalization” (Form M-476), to ensure the correct documents are included. Send an English translation with any document that is not already in English. The translation must include a statement from the translator that he or she is competent to translate and that the translation is correct.

7. Fingerprinting. The command representative will schedule the applicant to have fingerprints completed at an Application Support Center (ASC). To do this, the Command Representative will go to <http://uscis.gov/graphics/fieldoffices/ascs/index.htm> for the complete list of ASCs and their hours of operation. Click on your state and it will take you to a list of the Application Support Centers in your state. The Command Representative does **not** call the ASC to schedule the appointment. Simply review the hours of operation listed and schedule the member accordingly. The command will then complete the fingerprint notification form. Once completed with the member’s correct address, ASC location, and date/time of the appointment, the form will be given to the applicant. The applicant will take the DOD (fingerprint) Referral form, Permanent Resident Card, and another form of identification (driver's license, military ID, passport, or state identification card) to the fingerprinting appointment. The second form of identification should have the applicant’s photograph on it.

- a. Overseas Commands/U.S. Naval Vessels. If the applicant is stationed overseas or on board a ship that is deployed the military police or master at arms may take the applicant’s

fingerprints. Send a completed USCIS Form FD-258 (fingerprint card), stock number 0104LF0069600, with the initial application package to the USCIS Lincoln Service Center at the address provided below.

- b. The Nebraska Service Center can **only** accept fingerprints applied to Form **FD-258**. The masthead of the form must be completed with:
 - a. All biographical data of the individual.
 - b. Address data of both the person being printed and the person taking the prints.
 - c. Applicant's "A" number in the "*OCA*" and "*Miscellaneous MNU*" blocks.
 - d. Signatures of the applicant and the person taking the fingerprints.
 - e. "**N-400 Military**" in the "*Reason Printed*" block.

The FD-258 and/or the cover sheet should clearly indicate where the prints were taken abroad. **Only prints taken at a U.S. military installation abroad, a U.S. Naval Vessel that is underway or U.S. embassy will be accepted.** USCIS strongly recommends that two sets of prints completed as above be submitted in the event that one set is found to be unacceptable by the FBI.

8. Mailing the Application Package. The Command Representative shall review the entire package with the applicant prior to mailing using the Command Representative checklist. Once the package is complete, the applicant should retain an entire copy. The application package should be accompanied by a cover letter, indicating the USCIS service center at which the applicant would like to be interviewed, and any periods of unavailability for said interview. The letter should also advise USCIS of the applicant's address and phone number. For those individuals who are applying from an APO or FPO address, USCIS also needs a stateside address and phone number of an individual who will always know where you are and can get in touch with you if necessary. The command is required to put a cover letter on the package to ensure that the package will be expedited. **If there is no cover sheet than the application will not be expedited.**

- a. Regardless of the residence of the applicant, the original application package should be mailed by certified mail, return receipt requested, to:

**U.S. Department of Homeland Security
Citizenship and Immigration Services
Nebraska Service Center
P.O. Box 87426
Lincoln, NE 68501-7426**

- b. If there are problems with any of the documents, the USCIS will contact OJAG (Code 16), to resolve any issues. Once the application is accepted and processed, USCIS will send the applicant a letter scheduling the interview. If citizenship is granted at the interview, the USCIS will send another letter to the applicant to arrange an oath ceremony (if they didn't complete it in conjunction with the interview).

9. The Interview. USCIS will schedule the applicant for an interview. They will send the applicant an interview notice that will tell the date, time, and place of the interview. Applicants will not receive a second notice. **If the interview must be rescheduled, applicants should directly contact the office where their interview is scheduled by mail as soon as possible.** They should explain their situation and ask to have their interview rescheduled. When a new date has been set, USCIS will send the applicant a new interview notice. Please note that rescheduling an interview may add several months to the naturalization process.

a. To make sure applicants receive the interview notice, they must notify USCIS whenever their address changes. They may call 1-800-375-5283 or mail USCIS Form AR-11, “Alien’s Change of Address Card” to the address listed on the card.

b. Applicants should appear at the office where they are to be interviewed in advance of their scheduled interview time. If applicants fail to appear at their interview without contacting USCIS, their cases will be “administratively closed.” If this happens and the applicant does not contact USCIS within 1 year to reopen the case, the application will be denied for lack of process.

c. Provide additional documents. In some cases, USCIS may ask the applicant to bring additional documents to the interview. These documents will be listed on the applicant’s appointment letter. If the applicant fails to bring the necessary documents, the case may be delayed or denied.

d. Take the English and civics test. During the interview, the applicant’s ability to read, write, and speak English will be tested. The applicant will also be tested about their knowledge and understanding of United States History and Government.

e. At the interview, an USCIS officer will place the applicant under oath and then ask questions about the applicant’s background and character.

10. Receive a Decision. After the interview, the application for citizenship will be granted, denied, or continued.

a. Granted. At the end of the interview, USCIS may advise the applicant that citizenship will be granted. In some cases, the applicant may be able to complete the oath ceremony the same day as his interview (where available). Otherwise, the applicant will receive a notice of when and where the oath ceremony will be.

b. Continued. The USCIS officer may also “continue” the case. This means the case is put on hold. If an applicant’s case is continued, it will add time to the naturalization. The most common reasons for continuation are: (1) failing the English and civics tests; and (2) failing to provide USCIS with required documents. When a case is continued, the applicant will be asked to: (1) come to a second interview, usually within 60-90 days of the first interview; or (2) provide additional documents.

c. Denied. If USCIS denies the application, the applicant will receive a written notice setting forth the reasons. There is an administrative review process for applicants who receive denials. The applicant may request a hearing with an USCIS officer if he feels he has been unfairly denied naturalization. The denial letter will explain how to request a hearing and will include the form needed.

11. Taking the Oath. If USCIS approves the application for naturalization, the applicant must attend a ceremony and take the Oath of Allegiance to the United States. If the applicant is overseas at the time of approval he must return to the United States to attend the ceremony and take the Oath of Allegiance, it cannot be done overseas. The following are the steps in this process:

a. USCIS will notify the applicant by mail of the time and date of the ceremony. The notice is called the “Notice of Naturalization Oath Ceremony” (Form N-445). In some cases, the USCIS may give the applicant the option to take the Oath on the same day as the interview. If the applicant decides to take a “same day” oath, USCIS will ask the applicant to come back to the office later that day. At this time, the applicant will take the Oath and receive his “Certificate of Naturalization.”

b. The applicant must check in with USCIS upon arrival at the site of the ceremony. If the applicant cannot attend the ceremony on the day scheduled, the USCIS notice (Form N-445) must be returned to the local USCIS office. The applicant should include a letter explaining why he/she cannot attend the ceremony and ask USCIS to reschedule.

c. Applicants are required to present their Permanent Resident Cards to USCIS when they check in for their oath ceremony. Applicants will receive their Certificate of Naturalization at the ceremony.

d. If more than a day has passed between the applicant’s interview and the ceremony, several questions will need to be answered. These questions are located on the back of the notice USCIS sends the applicant.

e. Take the Oath. The applicant is not a citizen until the Oath of Allegiance is taken. The oath is taken during the ceremony. An official will read each part of the Oath slowly and ask the applicant to repeat the words. The Oath can be found in the section titled “Eligibility Requirements” in the Form M-476 “A Guide to Naturalization.”

f. Once the applicant has taken the Oath, he/she will receive a Certificate of Naturalization. The applicant may use this document as proof of United States citizenship.

g. It is strongly recommended that applicants obtain a United States passport soon after their naturalization ceremony. A passport serves as evidence of citizenship and is easier to use than a Certificate of Naturalization. In addition, if the Certificate of Naturalization is lost, it can take up to one year to receive a new certificate. If the applicant does not have a passport, there will be no evidence of citizenship during the time he/she is waiting for a new certificate. Applicants can get an application for a passport at their oath ceremony or at most post offices.

h. If you are going to have your name changed when you take the Oath you must request a judicial ceremony. The name change includes dropping one of your names. It does not include changing from a maiden name to a married name.