

Senator Peter Welch
Senate Judiciary Committee
Subcommittee on the Constitution
Written Questions for Peter Spiro
Hearing on “Protecting American Citizenship III: Denaturalization and its Constitutional Limits”
Wednesday, June 3, 2026

1. Why do you think the Supreme Court has historically and repeatedly recognized the rights of naturalized citizens and defended against efforts to strip citizenship?

The United States has been built through immigration. Citizenship is a central institution of our democracy. In turn, equality is a core precept of citizenship. Integrating these elements of our national experience demands that naturalized citizens enjoy the same constitutional status as native-born citizens. This understanding is firmly established in pronouncements of the U.S. Supreme Court dating back to the nation’s founding. As Chief Justice John Marshall Justice Marshall remarked in *Osborn v. Bank of the United States*, the naturalized citizen “becomes a member of the society, possessing all the rights of a native citizen, and standing, in the view of the Constitution, on the footing of a native.”

As co-equals in our constitutional order, naturalized citizens enjoy full protection from involuntary termination of their citizenship, with the sole exception that their naturalization may be reversed where it was unlawfully procured. Unlawful procurement of naturalization can only be based on circumstances relating the naturalization application itself. Post-application conduct cannot serve as the basis for denaturalization unless it relates back to the naturalization application itself.

The Supreme Court has set a high bar for denaturalization. Denaturalization can only be undertaken where supported by “clear, unequivocal, and convincing evidence which does not leave the issue in doubt.” Naturalization “once conferred should not be taken away without the clearest sort of justification and proof.” This is particularly true where the government’s case rests on issues of belief or fraud, spheres in which, as Justice Frankfurter counseled in *Baumgartner v. United States*, “proof is treacherous, and objective judgment, even by the most disciplined minds, precarious.”

2. In *Afroyim v. Rusk*, the Supreme Court said, “In our country the people are sovereign and the Government cannot sever its relationship to the people by taking away their citizenship.” How will the Trump Administration’s efforts to denaturalize additional Americans threaten these core principles?

While *Afroyim* did not foreclose the termination of citizenship in certain limited circumstances, the Trump Administration's aggressive denaturalization campaign is certainly in tension with *Afroyim*'s spirit. Justice Black's opinion stressed that both native-born and naturalized citizens enjoy the protections of the Citizenship Clause of the Fourteenth Amendment, under which "[a]ll persons born or naturalized in the United States . . . are citizens of the United States." As Black observed, "There is no indication in these words of a fleeting citizenship, good at the moment it is acquired but subject to destruction by the Government at any time." The Trump Administration's efforts, if successful, would have the clear effect of weakening the sanctity of citizenship however acquired.