

Citizenship exemption can be abused

The Philadelphia Inquirer

August 24, 2009 Monday, CITY-C Edition

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Section: NATIONAL; P-com News for PC Home Page; Pg. A01

Length: 1105 words

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Body

Tunisian-born Sofian Khelifi, 34, is a knowledgeable man, college-educated, fluent in Arabic, French, Italian, and English - the type who, presumably, could pass the simple, brief test for U.S. **citizenship**.

In 2002, five years after arriving in Philadelphia, Khelifi began the process of naturalization. But the consultant he hired to help him apply, Broomall businessman Habeeb Malik, had a curious idea for greasing the skids. He took Khelifi to an osteopath in Media who, after 15 minutes, concluded he had "mental retardation, anxiety disorder, and depression.

With a diagnosed learning disability, Khelifi could have become a citizen without having to take the test.

How many immigrants used the shortcut has not yet been determined. However, a federal jury already has found Malik, Ira Weiner, and another Philadelphia-area physician, Thongchai Vorasingha, guilty of naturalization fraud for participating in evaluations of at least a dozen applicants falsely labeled mentally disabled. In court documents, investigators said Weiner had told them he saw up to 150 immigrant clients in three years.

The three, set to be sentenced in October, "exposed a vulnerability" in immigration law, said Andrew McLees, who supervises investigations for Immigration and Customs Enforcement in Philadelphia. "They cheated to get naturalization, which is the golden ticket."

The test's rules are clear.

Immigrants seeking **citizenship** must be able to "read, write, and speak . . . simple words" of English, and pass a 10-question exam on American history and government.

But exceptions are made for those older than 55 who have lived here legally at least 15 years and for immigrants of any age with "a physical or developmental disability" that prevents basic understanding of English and civics.

Most of the time, immigration officials say, the disability **exemption** - requiring a doctor's signature - is used legitimately. Rarely, they say, is it exploited as a loophole. The Philadelphia case is thought to be one of only a few such prosecutions in the country.

The scam began almost a decade ago when Malik became a patient at Weiner's Media office.

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According to trial testimony and a 2007 statement that Weiner gave to federal investigators, Malik soon made a pitch. He said he represented immigrants who needed a doctor to attest to disabilities that kept them from ever learning basic English.

They had been traumatized by war, starvation, and poverty in their home countries, Malik told Weiner. Most were from the Middle East and Asia and, as green-card holders, had lived in the United States for years. Now they sought **citizenship**, and Malik wanted Weiner to examine them and sign their disability-exception claims.

Through the Foundation of Human Services - the now-defunct company Malik operated from his Broomall home - he charged clients about \$2,000 to prepare their naturalization applications, according to court records. Malik, a naturalized citizen from India, paid Weiner \$110 for each client he saw.

At first, Weiner performed the 15-minute exams at his office. Later, he did them at Malik's home, where Malik prepared the paperwork. Fluent in Hindi, Arabic, Farsi, Urdu, English, and French, Malik did the interviews using questions Weiner provided.

In trial testimony, Weiner said he had tried to talk with each patient but had given up when he ran into language barriers. Eventually, he told investigators, he stopped communicating directly with the clients and relied on information Malik gleaned.

In this manner, Weiner diagnosed "mental retardation, post-traumatic stress disorder, depression, and anxiety" in nearly all the patients. He told investigators that he had participated in the arrangement with Malik because he "felt sorry" for the immigrants, and to supplement his income.

By 2003, Weiner had severed the relationship with Malik. By then, they had worked together on 130 to 150 cases, according to court records.

Investigators uncovered paperwork for 76 cases. Some, like Khlifi's, apparently were never presented to immigration authorities; Khlifi wound up taking the test, and passed. But an unknown number of the signed disability documents - estimated by investigators at several dozen - were submitted to immigration offices in Philadelphia and Newark, N.J.

The frequency with which Weiner's and Malik's names appeared on similarly worded forms raised the suspicions of immigration personnel that the two were colluding in a con, authorities said in recent interviews.

A task force from the U.S. **Citizenship** and Immigration Services, Immigration and Customs Enforcement, and the U.S. Attorney's Office began reviewing the applications, said McLees, of ICE.

In September, after a three-year probe, a federal grand jury in Philadelphia indicted Malik, Weiner, and Vorasingha, a naturalized citizen from Thailand who also signed some disability exceptions presented by Malik.

Last month, the three were tried before U.S. District Judge R. Barclay Surrick in Philadelphia for naturalization fraud and found guilty. Malik also was convicted of filing false tax returns, reporting just \$62,158 on an adjusted gross income of \$350,281 for 2002 through 2005.

Investigators say sentencing guidelines call for prison terms of two to four years.

Weiner's lawyer, Lisa Mathewson, and lawyers for Malik and Vorasingha have asked the judge to set aside the verdict, arguing that the government failed to prove a conspiracy among Malik, Weiner, and Vorasingha because the two doctors - residents of Narberth and Philadelphia, respectively - never knew of each other's existence.

Karen FitzGerald, director of U.S. **Citizenship** and Immigration Services in Philadelphia, said her office was reviewing the disability-exception requests involving Malik, Weiner, and Vorasingha. Most of those cases were put on administrative hold when the fraud allegations surfaced. "At least a couple dozen," she said, could end up in denaturalization proceedings.

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Federal immigration reports show the average number of naturalizations rising from fewer than 120,000 a year in the 1950s to 680,000 annually since 2000. Data are not published on disability exceptions.

A 1999 amendment to immigration law, the exception exists to aid families in which members are naturalized citizens but might have children, for example, whose learning disabilities permanently prevent mastery of English.

It was created, Fitzgerald said, with humanitarian intent.

"Most people play by the rules," she said. "Some try to go around them. We can't stop them from trying, but we are happy we caught them."

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Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: IMMIGRATION (92%); **CITIZENSHIP** (92%); DISABLED PERSONS (89%); MENTAL RETARDATION (78%); PASSPORTS & VISAS (77%); US FEDERAL GOVERNMENT (77%); LEARNING DISABILITIES (75%); DEVELOPMENTAL DISABILITIES (75%); MENTAL ILLNESS (75%); LAW COURTS & TRIBUNALS (74%); JURY TRIALS (74%); WITNESSES (74%); SPECIAL INVESTIGATIVE FORCES (74%); FEDERAL INVESTIGATIONS (74%); FRAUD & FINANCIAL CRIME (73%); INVESTIGATIONS (73%); ANXIETY DISORDERS (70%); SENTENCING (69%); HISTORY (68%); POVERTY & HOMELESSNESS (60%)

Geographic: PENNSYLVANIA, USA (92%); UNITED STATES (92%); INDIA (79%); MIDDLE EAST (79%); ASIA (78%)

Load-Date: August 24, 2009