NO. ____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2025

ORLANDO CHAVEZ,
***Petitioner*,**

v.

UNITED STATES OF AMERICA,
***Respondent*.**

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

In *Maslenjak v. United States*, 137 S. Ct. 1918 (2017), this Court held that in a prosecution for procurement of naturalization based on a false statement, the government must prove that an accurate statement would have resulted in an investigation and "that the investigation 'would predictably have disclosed' some **legal disqualification**." *Id.* (emphasis added) (quoting *Kungys v. United States*, 485 U.S. 759, 774 (1988)). Additionally, in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), this Court held that it was an error for a federal court to defer to a legal interpretation, decision, or regulation of an administrative agency, and that the court must make those legal decisions independent of agency interpretation. *Id.* at 2273.

The Question Presented is:

Whether a court can defer to an immigration agency regulation that expands the circumstances under which a naturalization applicant fails to meet the good moral character requirement in 8 U.S.C. § 1101(f) in order to find a "legal disqualification" as required by *Maslenjak*the or whether the term "legal disqualification" in *Maslenjak* requires proof of a statutory disqualification without deference to an agency regulation?

INTERESTED PARTIES

Orlando Chavez, Petitioner

United States of America, Respondent

RELATED CASES

United States District Court (S.D. Fla.):

United States v. Orlando Chavez, No. 24-cr-20035-RKA
(January 27, 2025)

United States Court of Appeals (11th Cir.):

United States v. Orlando Chavez, No. 25-10314
(December 19, 2025)

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PETITION FOR WRIT OF CERTIORARI

Mr. Orlando Chavez respectfully petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit, rendered and entered in case number 25-10314 in that court on December 19, 2025, *United States v. Chavez,* which affirmed the judgment and commitment of the United States District Court for the Southern District of Florida. Mr. Chavez filed a timely petition for rehearing en banc. On March 3, 2026, the Eleventh Circuit denied Mr. Chavez's petition for rehearing *en banc*.

OPINION BELOW

A copy of the decision of the United States Court of Appeals for the Eleventh Circuit, which affirmed the judgment and commitment of the United States District Court for the Southern District of Florida, is contained in the Appendix (A-1).

STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Part III of the RULES OF THE SUPREME COURT OF THE UNITED STATES. The decision of the court of appeals was entered on December 19, 2025 and on March 3, 2026, the court of appeals denied a timely-filed petition for en banc reconsideration. This petition is timely filed pursuant to Sup. Ct. R. 13.1. The district court had jurisdiction because petitioner was charged with violating federal criminal laws. The court of appeals had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742, which provide that courts of appeals shall have jurisdiction for all final decisions of United States district courts.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner intends to rely upon the following constitutional provision and federal statutes:

U.S. Const., amend. V:

> No person shall be . . . compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

8 U.S.C. § 1101(f):

(f) For the purposes of this chapter--

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established is, or was--

(1) a habitual drunkard;

(2) Repealed. Pub.L. 97-116, § 2(c)(1), Dec. 29, 1981, 95 Stat. 1611.

(3) a member of one or more of the classes of persons, whether inadmissible or not, described in paragraphs (2)(D), (6)(E), and (10)(A) of section 1182(a) of this title; or subparagraphs (A) and (B) of section 1182(a)(2) of this title and subparagraph (C) thereof of such section[5] (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana), if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this chapter;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)); or

(9) one who at any time has engaged in conduct described in section 1182(a)(3)(E) of this title (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 1182(a)(2)(G) of this title (relating to severe violations of religious freedom).

The 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. In the case of an alien who makes a false statement or claim of citizenship, or who registers to vote or votes in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of such registration or voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such statement, claim, or violation that he or she was a citizen, no finding that the alien is, or was, not of good moral character may be made based on it.

8 U.S.C. § 1101(a)(43):

(a)(43) The term "aggravated felony" means--

(A) murder, rape, or sexual abuse of a minor;

(B) illicit trafficking in a controlled substance (as defined in section 802 of Title 21), including a drug trafficking crime (as defined in section 924(c) of Title 18);

(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of Title 18) or in explosive materials (as defined in section 841(c) of that title);

(D) an offense described in section 1956 of Title 18 (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $10,000;

(E) an offense described in--

> **(i)** section 842(h) or (i) of Title 18, or section 844(d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);
>
> **(ii)** section 922(g)(1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924(b) or (h) of Title 18 (relating to firearms offenses); or
>
> **(iii)** section 5861 of Title 26 (relating to firearms offenses);

(F) a crime of violence (as defined in section 16 of Title 18, but not including a purely political offense) for which the term of imprisonment at[3] least one year;

(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment at[3] least one year;

(H) an offense described in section 875, 876, 877, or 1202 of Title 18 (relating to the demand for or receipt of ransom);

(I) an offense described in section 2251, 2251A, or 2252 of Title 18 (relating to child pornography);

(J) an offense described in section 1962 of Title 18 (relating to racketeer influenced corrupt organizations), or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of one year imprisonment or more may be imposed;

(K) an offense that--

> **(i)** relates to the owning, controlling, managing, or supervising of a prostitution business;
>
> **(ii)** is described in section 2421, 2422, or 2423 of Title 18 (relating to transportation for the purpose of prostitution) if committed for commercial advantage; or
>
> **(iii)** is described in any of sections 1581-1585 or 1588-1591 of Title 18 (relating to peonage, slavery, involuntary servitude, and trafficking in persons);

(L) an offense described in--

> **(i)** section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of Title 18;
>
> **(ii)** section 3121 of Title 50 (relating to protecting the identity of undercover intelligence agents); or
>
> **(iii)** section 3121 of Title 50 (relating to protecting the identity of undercover agents);

(M) an offense that--

(i) involves fraud or deceit in which the loss to the victim or victims exceeds $10,000; or

(ii) is described in section 7201 of Title 26 (relating to tax evasion) in which the revenue loss to the Government exceeds $10,000;

(N) an offense described in paragraph (1)(A) or (2) of section 1324(a) of this title (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this chapter[4]

(O) an offense described in section 1325(a) or 1326 of this title committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;

(P) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of Title 18 or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment is at least 12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this chapter;

(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more;

(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year;

(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which the term of imprisonment is at least one year;

(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

(U) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after September 30, 1996.

8 C.F.R. § 316.10(b):

(b) Finding of a lack of good moral character.

(1) An applicant shall be found to lack good moral character, if the applicant has been:

> (i) Convicted of murder at any time; or
>
> (ii) Convicted of an aggravated felony as defined in section 101(a)(43) of the Act on or after November 29, 1990.

(2) An applicant shall be found to lack good moral character if during the statutory period the applicant:

> (i) Committed one or more crimes involving moral turpitude, other than a purely political offense, for which the applicant was convicted, except as specified in section 212(a)(2)(ii)(II) of the Act;
>
> (ii) Committed two or more offenses for which the applicant was convicted and the aggregate sentence actually imposed was five years or more, provided that, if the offense was committed outside the United States, it was not a purely political offense;
>
> (iii) Violated any law of the United States, any State, or any foreign country relating to a controlled substance, provided that the violation was not a single offense for simple possession of 30 grams or less of marijuana;

(iv) Admits committing any criminal act covered by paragraphs (b)(2)(i), (ii), or (iii) of this section for which there was never a formal charge, indictment, arrest, or conviction, whether committed in the United States or any other country;

(v) Is or was confined to a penal institution for an aggregate of 180 days pursuant to a conviction or convictions (provided that such confinement was not outside the United States due to a conviction outside the United States for a purely political offense);

(vi) Has given false testimony to obtain any benefit from the Act, if the testimony was made under oath or affirmation and with an intent to obtain an immigration benefit; this prohibition applies regardless of whether the information provided in the false testimony was material, in the sense that if given truthfully it would have rendered ineligible for benefits either the applicant or the person on whose behalf the applicant sought the benefit;

(vii) Is or was involved in prostitution or commercialized vice as described in section 212(a)(2)(D) of the Act;

(viii) Is or was involved in the smuggling of a person or persons into the United States as described in section 212(a)(6)(E) of the Act;

(ix) Has practiced or is practicing polygamy;

(x) Committed two or more gambling offenses for which the applicant was convicted;

(xi) Earns his or her income principally from illegal gambling activities; or

(xii) Is or was a habitual drunkard.

(3) Unless the applicant establishes extenuating circumstances, the applicant shall be found to lack good moral character if, during the statutory period, the applicant:

(i) Willfully failed or refused to support dependents;

(ii) Had an extramarital affair which tended to destroy an existing marriage; or

(iii) Committed unlawful acts that adversely reflect upon the applicant's moral character, or was convicted or imprisoned for such acts, although the acts do not fall within the purview of § 316.10(b) (1) or (2).

STATEMENT OF THE CASE

Course of Proceedings and Disposition of the Case

A federal grand jury in the Southern District of Florida charged Mr. Orlando Chavez in a two-count indictment with one count of unlawfully procuring naturalization in violation of 18 U.S.C. § 1425(a), and one count of misuse of evidence of naturalization in violation of 18 U.S.C. § 1423. DE 1. Following a jury trial, Mr. Chavez was convicted on both counts. DE 50. The district court sentenced Mr. Chavez to an 18-month term of imprisonment and revoked Mr. Chavez's naturalization. DE 69; DE 80 at 34. On appeal, a three-judge panel of the Eleventh Circuit issued an unpublished opinion affirming Mr. Chavez's conviction without the benefit of oral argument. *United States v. Chavez*, No. 25-10314, 2025 WL 3687749 (11th Cir. December 19, 2025) (unpublished). On March 3, 2026, the Eleventh Circuit issued an order denying Mr. Chavez's timely-filed petition for en banc rehearing.

STATEMENT OF FACTS

Mr. Orlando Chavez is a forty-four-year-old native of Artemisa, Cuba. Presentence Report (PSR) at ¶ 35. Mr. Chavez legally entered the United States on August 9, 2012, as part of the family reunification program. PSR ¶¶ 41, 42. Mr. Chavez became a naturalized United States Citizen on April 30, 2018. PSR ¶ 42. Mr. Chavez had no prior convictions or arrests, until he was convicted in state court in 2019 on two counts of child abuse with no bodily harm. PSR ¶¶ 26-28.

A federal grand jury in the Southern District of Florida charged Mr. Orlando Chavez in a two-count indictment with one count of unlawfully procuring naturalization in violation of 18 U.S.C. § 1425(a), and one count of misuse of evidence of naturalization in violation of 18 U.S.C. § 1423. DE 1. At trial, the government presented evidence that, aside from the offense in question, Mr. Chavez met all other legal qualifications at the time of his naturalization application and interview in 2017. The government also presented evidence that both on the application and at the interview, Mr. Chavez answered "no" to the question "were you ever involved in – forcing, or trying to force, someone to have any kind of sexual contact or relations?" DE 78 at 52, and that Mr. Chavez answered "no" to the question "have you ever committed, assisted in committing, or attempted to commit a crime or offense for which you were not arrested?" *Id*. at 55. The government presented evidence that Mr. Chavez applied for a United States passport at a United States Post Office in Hialeah using his driver's license and naturalization certificate. *Id*. at 70-79.

The government presented evidence that in 2018, after he had been naturalized, Mr. Chavez was charged in state court with sexually abusing his daughter in 2014, before his naturalization. Although that charge carried a mandatory life sentence, the testimony at trial from the state prosecutor handling the case was that after being detained for fourteen months, Mr. Chavez entered a plea of guilty to an information charging him with just two counts of child abuse with no harm and he was given a sentence of time served on October 10, 2019. The prosecutor testified that she handwrote on the charging document that Mr. Chavez had inserted his penis into his daughter's vagina but there was no evidence that Mr. Chavez saw that language or that he was made aware of that language before entering a plea of guilty. DE 78 at 84-121.

The government rested its case and counsel for Mr. Chavez moved for a judgment of acquittal. DE 78 at 130-131. The district court denied the motion. *Id.* at 131-132. The defense did not put on a case. Mr. Chavez was convicted on both counts. The district court sentenced Mr. Chavez to an 18-month term of imprisonment. In addition, the district court ordered that Mr. Chavez's naturalization be revoked. DE 80 at 33-34.

On appeal, Mr. Chavez argued that as a matter of law, the government failed to prove that any legal disqualification would have been found if Mr. Chavez had stated that he had committed an offense against his daughter for which he had not been prosecuted. In his initial brief, Mr. Chavez argued that this Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), prevented the Court from relying on agency regulations to find legal disqualifications. Nevertheless, the Eleventh Circuit affirmed Mr. Chavez's convictions relying on circuit precedent which gave complete deference to an agency regulation that expanded the basis for legal disqualification for naturalization to include the **commission** of a criminal offense even if not convicted of the offense. *United States v. Chavez*, No. 25-10314, 2025 WL 3687749 at *2-*3 (11th Cir. December 19, 2025) (unpublished) (citing *United States v. Jean-Baptiste*, 395 F.3d 1190, 1193-94 (11th Cir. 2005)). Mr. Chavez filed a timely petition for rehearing en banc arguing, inter alia, that the Eleventh Circuit's decision in *Jean-Baptiste* had been overruled by this Court's decision in *Loper Bright*. On March 3, 2026, the Eleventh Circuit denied the petition for rehearing en banc without explanation.

REASONS FOR GRANTING THE WRIT

The opinion of the Eleventh Circuit is in direct conflict with this Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), because the Eleventh Circuit gave complete deference to an agency's regulation that expands the basis for denying naturalization beyond the federal statute. In *Maslenjak v. United States*, 137 S. Ct. 1918 (2017), this Court held that in a prosecution for making a false statement on a naturalization application, the government must prove that the false statement prevented the disclosure of a legal disqualification for naturalization. In its opinion, the Eleventh Circuit found proof of a legal disqualification only by relying on a regulation of the Department of Homeland Security that expands the definition of lack of moral character to include the commission, but not conviction, of an offense like the one Mr. Chavez was subsequently convicted of once he was a naturalized citizen.

Introduction

In *Maslenjak v. United States*, 137 S. Ct. 1918 (2017), this Court held that in a prosecution for procurement of naturalization based on a false statement, "the Government must make a two-part showing to meet its burden." *Id*. at 1929. First, "the Government has to prove that the misrepresented fact was sufficiently relevant to one or another naturalization criteria that it would have prompted reasonable officials, 'seeking only evidence concerning citizenship qualifications,' to undertake further investigation." *Id*. (emphasis added) (quoting *Kungys v. United States*, 485 U.S. 759, 774, n.9 (1988)). If that prong is met, the government must then prove "that the investigation 'would predictably have disclosed' some **legal disqualification**." *Id.* (emphasis added) (quoting *Kungys*, 485 U.S. at 774).

Mr. Chavez was convicted, following a jury trial, on one count of unlawfully procuring a naturalization certificate by lying on his naturalization application and one count of using that naturalization certificate to obtain a United States passport. The government's theory at trial was simple. In 2017, Mr. Chavez signed a naturalization application in which he stated that he had not committed an offense or crime for which he had not been arrested. In October 2019, after he was naturalized, Mr. Chavez entered a plea of guilty to two counts of child abuse – no harm, for acts that predated his naturalization application. However, an admission to uncharged child abuse at the time of his naturalization application would not have qualified as a **legal disqualification** preventing Mr. Chavez from becoming a Citizen. Thus, the government failed to prove that Mr. Chavez knowingly lied on a material fact that was legally disqualifying or that would have predictably disclosed a legally disqualifying fact when he signed his naturalization application. Because the government failed to prove that Mr. Chavez unlawfully procured his naturalization, the government also failed to prove that he did anything unlawful when he used his certificate of naturalization to get a United States Passport.

Nevertheless, the Eleventh Circuit affirmed the conviction relying exclusively on its prior decision in *United States v. Jean-Baptiste*, 395 F.3d 1190 (11th Cir. 2005), to conclude that Mr. Chavez's **mere commission** of an offense against his daughter during his good moral character period, even though there was no conviction at that time, made him legally ineligible for citizenship at the time and supported his conviction for unlawful procurement of citizenship. *United States v. Chavez*, No. 25-10314, 2025 WL 3687749 at *2-*3 (11th Cir. December 19, 2025) (unpublished). In *Jean-Baptiste*, the Eleventh Circuit made clear that its holding that the mere commission of an offense, without a conviction, was sufficient to find that an applicant lacked the requisite moral character was based on complete deference to an agency regulation that expanded the scope of what constitutes lack of moral character:

> Thus, the district court seized upon the final "catch-all" section of 8 U.S.C. § 1101(f) (8), in which Congress delegated authority to the former INS to set forth "other reasons" affecting determinations of good moral character. Pursuant to this authority, Congress delegated to the Attorney General authority to issue 8 C.F.R. § 316.10, including § 316.10(b)(3)(iii), which states that "the applicant shall be found to lack good moral character if, during the statutory period, the applicant ... (iii) Committed unlawful acts that adversely reflect upon the applicant's moral character, or was convicted or imprisoned for such acts, although the acts do not fall within the purview of § 316.10(b)(1) or (2)." **This regulation is entitled to deference**. *See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837, 843–44, 104 S.Ct. 2778, 81 L.Ed.2d694 (1984) ("if Congress has explicitly left a gap for the agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation.")

Jean-Baptiste, 395 F.3d at 1194 (emphasis added).

However, the holding and logic of the *Jean-Baptiste* decision, and in turn the holding and logic of the Eleventh Circuit's decision affirming Mr. Chavez's conviction, have been abrogated by this Court's decisions in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) and can no longer support the Eleventh Circuit's decision. In *Loper Bright*, this Court expressly overruled *Chevron* and held that a court was not authorized to defer to an agency regulation especially, whereas here, the agency regulation went beyond what was allowed under the federal statute. *Loper Bright*, 603 U.S. at 412-413.

In addition to its erroneous deference to an agency regulation, the Eleventh Circuit disregarded this Court's expressed holding in *Maslenjak* by relying on the subjective testimony of the immigration officer who testified that, in hindsight, she would have found that Mr. Chavez was not qualified:

> The immigration officer testified that had Chavez disclosed [that he had sexually abused his daughter], she would have investigated further and ultimately denied his [naturalization] application.

Chavez, 2025 WL 3687749 at *3. In *Maslenjak*, this Court made clear that such was precisely NOT the standard to be employed when the government seeks a conviction under § 1425(a) based on a false statement made to a government official:

> So the issue a jury must decide in a case like this one is whether a false statement sufficiently altered those processes as to have influenced an award of citizenship. The answer to that question, like the naturalization decision itself, turns on **objective legal criteria**. Congress has prescribed specific eligibility standards for new citizens, respecting such matters as length of residency and physical presence, understanding of English and American government, and . . . "good moral character," with all its many specific components. See 8 U.S.C. §§ 1423(a), 1427(a); supra at 1926-1927. Government officials are obligated to apply that body of law faithfully – granting naturalization when the applicable criteria are satisfied, and denying it when they are not . . . . The entire system, in other words, is set up to provide little or **no room for subjective preferences or personal whims**. Because that is so, **the question of what any individual decisionmaker might have done with accurate information is beside the point**. The defendant in a § 1425(a) case should neither benefit nor suffer from a wayward official's deviations from **legal requirements**.

Id. at 1928 (emphasis added).

The holding in *Jean-Baptiste* that the commission of an offense, and not a **conviction** for that offense, was sufficient to find some as lacking good moral character under 8 U.S.C. § 1101(f) and disqualified from naturalization, was based on deference to a federal regulation stating that an applicant "committed unlawful acts . . . or was convicted or imprisoned for such acts." *Jean-Baptiste*, 395 F.3d at 394 (quoting 8 C.F.R. § 316.10(b)(3)(iii)). The Eleventh Circuit in *Jean-Baptiste* noted that the regulation was entitled to complete deference under *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843-44 (1984). *Id.* But as Mr. Chavez clearly argued to the Eleventh Circuit in appellant's brief and in the petition for rehearing en banc, this Court's decision in *Loper Bright* makes clear that such deference to federal regulations are no longer valid. *See United States v. Chavez*, No. 25-10314, Appellant's Initial Brief, 11th Cir. DE 17 at 46-47, Appellant's Petition for Rehearing En Banc, 11th Cir. DE 37 at 18. Because it is clear that the Eleventh Circuit will continue to defer to an agency regulation, 8 C.F.R. § 316.10, to hold that the mere commission of an offense, rather than a conviction for that offense, is a legal disqualification for naturalization, this Court must grant the petition for a writ of certiorari to the Eleventh Circuit. In addition, the Trump administration has made clear that it will increase the number of de-naturalization prosecutions and that many of those cases are similar to Mr. Chavez's case in that the government will rely on a false statement regarding the mere commission of an offense. *See* Hamed Aleaziz and Medeline Ngo, Trump Administration Wants to Strip 12 Immigrants of U.S. Citizenship, New York Times (May 8, 2026), available at https://www.nytimes.com/2026/05/08/us/politics/trump-immigrants-citizenship.html?smid=nytcore-ios-share. Similar to Mr. Chavez, several of the individuals are accused of failing to disclose that they committed an offense for which they had not been prosecuted prior to naturalization and prosecutions are proceeding in districts within the Eleventh Circuit. *See id.* This Court should grant the petition for a writ of certiorari to ensure that those prosecutions do not proceed under the flawed reasoning that deference to an agency regulation can support a finding of legal disqualification.

Merits

Federal law makes it illegal to "knowingly procure[] or attempt[] to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or citizenship." 18 U.S.C. § 1425(a). This Court has held that the "contrary to law" element in section 1425(a) requires the government to prove not only that the individual committed some other illegal act in the course of procuring naturalization, but that the individual's other illegal act must have "played some role in" the acquisition of naturalization. *Maslenjak v. United States*, 137 S. Ct. 1918, 1925 (2017). Where the individual's alleged other act is making a false statement, the government must prove a "means-end connection," or "causal influence," between the individual's false statement and his naturalization. *Maslenjak*, 137 S. Ct. at 1926-1928. This is an objective analysis so that in order "[t]o decide whether a defendant acquired citizenship by means of a lie, a jury must evaluate how knowledge of the real facts would have affected a reasonable government official properly applying naturalization law." *Id.* at 1928.

The government may prove the requisite causal link in one of two ways: 1) under a disqualifying fact theory; or 2) under an investigation-based theory. *Maslenjak*, 137 S. Ct. at 1928-1930. Under the disqualifying fact theory, "[i]f the facts the defendant misrepresents are themselves disqualifying . . . there is an obvious causal link between the defendant's lie and her procurement of citizenship." *Maslenjak*, 137 S. Ct. at 1928. Under an investigation-based theory, "the Government must make a two-part showing to meet its burden." *Id.* at 1929. First, "the Government has to prove that the misrepresented fact was sufficiently relevant to one or another naturalization criteria that it would have prompted reasonable officials, 'seeking **only evidence concerning citizenship qualifications**,' to undertake further investigation." *Id.* (emphasis added) (quoting *Kungys v. United States*, 485 U.S. 759, 774, n.9 (1988)). If that prong is met, the government must then prove "that the investigation 'would predictably have disclosed' some legal disqualification." *Id.* (quoting *Kungys*, 485 U.S. at 774). Finally, "[w]hatever the Government shows with respect to a thwarted investigation, qualification for citizenship is a complete defense to a prosecution brought under § 1425(a)." *Id.* at 1930.

Here, the theory of the government's case was that Mr. Chavez lied on his naturalization application, in April of 2017. Specifically, the government argued that Mr. Chavez: 1) lied on his naturalization application when he answered "no" to the question "have you ever committed, assisted in committing, or attempted to commit a crime or offense for which you were not arrested?"; and 2) lied on his naturalization application when he answered "no" to the question "were you ever involved in – forcing, or trying to force, someone to have any kind of sexual contact or relations?"

To prove that Mr. Chavez had lied as to those two questions on his naturalization application in April 2017, the government relied on the fact that in October 2019, Mr. Chavez entered a plea of guilty to two counts of child abuse -- no harm, for acts that predated his naturalization application. Pursuant to *Maslenjak*, the government had to prove a link between the misstatement of fact and the procurement of citizenship by one of two ways: 1) under a disqualifying fact theory; or 2) under an investigation-based theory. 137 S. Ct. at 1928-1930.

Disqualifying Fact Theory

Even viewing the evidence in the light most favorable to the government, the government failed to prove Mr. Chavez guilty beyond a reasonable doubt under the disqualifying fact theory. Under the disqualifying fact theory, the government must prove that the facts that Mr. Chavez "misrepresented are themselves disqualifying." *See Maslenjak*, 137 S. Ct. at 1928. In other words, if Mr. Chavez had answered yes to either question, would that fact alone have legally disqualified him from being naturalized? The simple answer to that is no. Federal law sets out specific eligibility requirements for naturalization. *See* 8 U.S.C. §§ 1422, 1423, 1424, 1425, 1427, 1429. If Mr. Chavez had said "yes," that he had committed or attempted to commit an offense for which he had not been arrested, that answer alone would not have disqualified him from naturalization. *See id.* Similarly, if he had said "yes," that he had been involved in – forcing, or trying to force, someone to have any kind of sexual contact or relations, that answer alone would also not have disqualified him from naturalization. *See id.* This is not the case, for example, of someone who lies and says "no" to the question of whether he left the United States to avoid the military draft, where an answer of "yes" would itself be legally disqualifying. *See* 8 U.S.C. § 1425. Nor is this the case where someone answers "no" to the question of whether he is a member of any organization that advocates the overthrow by force of the Government of the United States, where an answer of "yes" would itself be legally disqualifying. *See* 8 U.S.C. § 1424(a)(4). Because the facts that Mr. Chavez misrepresented were not themselves legally disqualifying, the government, as a matter of law, failed to prove Mr. Chavez guilty beyond a reasonable doubt under a disqualifying fact theory. *See Maslenjak*, 137 S. Ct. at 1928.

Investigation Based Theory

Even viewing the evidence in the light most favorable to the government, the government also failed to prove Mr. Chavez guilty beyond a reasonable doubt under the investigation-based theory. Under an investigation-based theory, the Government had to prove beyond a reasonable doubt that: 1) the misrepresented fact was sufficiently relevant to one or another naturalization criteria that it would have prompted reasonable officials, "**seeking only evidence concerning citizenship qualifications**," to undertake further investigation; and 2) the investigation "would predictably have disclosed" some **legal disqualification**. *See Maslenjak*, 137 S. Ct. at 1929 (emphasis added).

As to the first prong, Mr. Chavez would concede for the sake of argument, that the evidence, viewed in the light most favorable to the government, was sufficient to prove beyond a reasonable doubt that a reasonable official would have undertaken further investigation "**seeking only evidence concerning citizenship qualifications**." The immigration officials testified that an answer of "no" to either question would have prompted further inquiry to determine whether Mr. Chavez was legally disqualified. That evidence must be viewed in the light most favorable to the government.

However, even when viewed in the light most favorable to the government, the government failed to prove beyond a reasonable doubt that such an investigation "would predictably have disclosed" some **legal disqualification**. *See Maslenjak*, 137 S. Ct. at 1929. Again, legal disqualification requires proof that Mr. Chavez expressly failed to meet a specific eligibility requirement for naturalization set out by federal law. *See id.; see also* 8 U.S.C. §§ 1422, 1423, 1424, 1425, 1427, 1429.

In order to determine whether the evidence against Mr. Chavez was sufficient to sustain his conviction, this Court must first determine, based on the evidence presented at trial, what facts would have predictably been disclosed from an inquiry "seeking only evidence concerning citizenship qualifications." This Court must then determine whether those facts would have legally disqualified Mr. Chavez from obtaining citizenship. *See United States v. Maslenjak*, 943 F.3d 782, 789 (1st Cir. 2019).

Predictably Disclosed Facts

The government presented the fact that on October 10, 2019, Mr. Chavez entered a plea of guilty to two counts of child abuse with no harm in a Florida state court. To determine whether a prior state conviction meets the criteria of a disqualifying offense under 8 U.S.C. § 1427, Courts apply the categorical approach. *See United States v. Lopez*, 75 F.4th 1337, 1341 (11th Cir. 2023); *see also Pugin v. Garland*, 599 U.S. 600, 603-604 (2023). Under the categorical approach, this Court looks only at the fact of conviction and the elements of the offense and not at the specific facts underlying the conviction. *Pugin*, 599 U.S. at 604 (quoting *Taylor v. United States*, 495 U.S. 575, 601 (1990); see also *Mathis v. United States*, 579 U.S. 500, 504 (2016). In addition, this Court presumes that the prior conviction rested upon nothing more than the least criminally culpable conduct. *Moncrieffe v. Holder*, 569 U.S. 184, 190-191 (2013); *see also Borden v. United States*, 593 U.S. 420, 441 (2021).

Under Florida law, a conviction for child abuse with no harm is an indivisible offense that requires proof of two elements. First, the government must prove that the accused knowingly and willfully abused the victim by: 1) intentionally inflicting physical or mental injury upon the victim; 2) committed an intentional act that could reasonably be expected to result in physical or mental injury to the victim; or 3) actively encouraged another person to committed an act that resulted in or could reasonably have been expected to result in physical or mental injury to the victim. Those represent the three ways in which the first element can be proved. Second, the government must prove that the victim was under the age of 18. *See* Fla. Stat. § 827.03 (1)(b), (2)(c); *see also In Re Standard Jury Instructions in Criminal Cases*, 190 So.3d 614 (Fla. April 14, 2016); *State of Florida v. Wright*, 2009 WL 7060426 (Fal. Cir. Ct. 11th Judicial Cir. July 17, 2009) (jury instructions). A state statute is indivisible when it contains a single set of elements that are not set forth in the alternative. *Descamps v. United States*, 570 U.S. 254, 258 (2013). Such a statute remains indivisible even if it "enumerates various factual means of committing a single element." *Mathis*, 579 U.S. at 506. Here, the Florida child abuse statute sets out an indivisible offense.

Applying the categorical approach, the least culpable conduct for someone to be convicted of child abuse with no harm under Florida law is actively encouraging another person to commit an act that could reasonably have been expected to result in physical or mental injury to the victim who was under the age of 18. Thus, the most that could have predictably been disclosed from an inquiry based on Mr. Chavez's plea of guilty is that, prior to his application of naturalization, Mr. Chavez actively encouraged someone else to commit child abuse. That fact alone would not have disqualified him from obtaining citizenship. *See* 8 U.S.C. §§ 1422, 1423, 1424, 1425, 1427, 1429.

It should be noted that the information charging Mr. Chavez with child abuse contained superfluous language stating that Mr. Chavez had placed his penis inside his minor daughter's vagina. However, that charging document is immaterial on the question of whether Mr. Chavez's conviction constitutes an aggravated felony. Under the categorical approach, this Court looks to the charging document only if the offense of conviction is a divisible offense. *See Shepard v. United States*, 544 U.S. 13, 23 (2005). With a divisible offense, review of reliable documents like the charging document is required to determine which alternate element was proven or admitted.

Again, child abuse with no harm is not a divisible offense so the Court cannot look to the *Shepard* documents at all. *See Shepard*, 544 U.S. at 23. Even if the Court were to hold that the offense of child abuse was divisible and that it was proper to review the *Shepard* documents, that inquiry is limited. Under a modified categorical approach for a divisible statute, the inquiry is limited to facts necessarily involved in the conviction and necessarily admitted by the accused. *See id.* Here, there was no evidence that Mr. Chavez was shown or made aware of the specific, superfluous language in the information prior to entering a plea of guilty to child abuse with no harm. Nothing in the plea colloquy demonstrates that Mr. Chavez was made aware that the language was part of the charging document or that he was in any way admitting to those specific facts. The plea colloquy demonstrates that the judge only informed Mr. Chavez that he was entering a plea of guilty to two counts of child abuse with no harm. Again, under the categorical approach, the least culpable conduct, and the most that can be read into the fact of the guilty plea, was that Mr. Chavez actively encouraged someone else to commit child abuse. There was no factual proffer or written plea agreement or any other manner in which those facts were made a knowing part of the plea of guilty. The government could not prove beyond a reasonable doubt that, by entering a plea of guilty to child abuse, Mr. Chavez was admitting to anything more than Mr. Chavez actively encouraging someone else to commit child abuse.

The facts surrounding the guilty plea also cast severe doubt on the facts that can be gleaned from the plea of guilty. From the testimony of the state prosecutor who handled Mr. Chavez's plea, Mr. Chavez was charged with a mandatory life felony that allowed no bond. So, Mr. Chavez was imprisoned for fourteen months waiting for his trial date. The prosecutor, a supervisor in the division, also testified that there were other prosecutors assigned to Mr. Chavez's case who had left. The case had been extended numerous times and the judge ordered no more extensions. At a hurried calendar call in which the court was dealing with the status of numerous cases, the prosecutor hastily agreed to allow Mr. Chavez to plea to two counts of child abuse. Although the prosecutor added language to the charging document, there was no evidence that Mr. Chavez was actually made aware of that language. In a very short amount of time, and after his case had been extended several times, Mr. Chavez had to decide to enter a plea of guilty to the two counts of child abuse and get out after being jailed for fourteen months, or say no and remain imprisoned much longer, perhaps the rest of his life.

In addition, the transcript of the plea colloquy makes clear that Mr. Chavez was not informed of the direct consequences of his plea. "[C]riminal defense counsel has a Sixth Amendment obligation to inform a client that his plea carries a risk of serious adverse immigration consequences . . . [including] denaturalization and related deportation." *United States v. Farhane*, 121 F.4th 353, 374 (2d Cir. 2024) (*en banc*). Although the state court judge informed Mr. Chavez during the plea colloquy that he could face deportation, there was no mention that Mr. Chavez, a United States Citizen at the time of his guilty plea, could have his United States citizenship revoked as a result of his plea of guilty. Although denaturalization and deportation may be related, they were distinctly different consequences of Mr. Chavez's plea of guilty and the failure to apprise him of that direct consequence calls the validity of the plea into question. *See Farhane*, 121 F.4th at 374.

However, under a categorical approach, this Court need only look at the fact of conviction to two counts of child abuse – no harm and the elements for that offense. At the most under the categorical approach, the fact of his guilty plea to the two counts of child abuse can only be seen as demonstrating that Mr. Chavez committed child abuse by Mr. Chavez actively encouraging someone else to commit child abuse.

Good Moral Character

The Eleventh Circuit opinion here relies exclusively on its pre-*Loper Bright* precedent which gives complete deference to an agency regulation to hold that the mere commission of an offense is sufficient to find a lack of moral character, where federal state requires a conviction. However, that holding is now legally incorrect. Federal statute provides that "no finding by the Attorney General that the applicant is not deportable shall be accepted as conclusive evidence of good moral character." 8 U.S.C. § 1427(d). Another federal statute expressly provides specific reasons why an individual would not be considered to be of good moral character. 8 U.S.C. § 1101(f). One of those specific factors that disqualifies someone as having good moral character is where a person who, "during the period for which good moral character is to be established is, or was . . . at any time has been **convicted** of an aggravated felony." 8 U.S.C. § 1101(f)(8) (emphasis added). The term "aggravated felony" is further defined in a separate subsection of that same statute. 8 U.S.C. § 1101(a)(43).

As noted above, applying the categorical approach to Mr. Chavez's convictions of child abuse, the fact of his guilty plea to the two counts of child abuse can only be seen as demonstrating that Mr. Chavez committed child abuse by Mr. Chavez actively encouraging someone else to commit child abuse. The commission of that offense during the statutory period fails to meet any of the definitions of "aggravated felony" under 8 U.S.C. §§ 1101(a)(43), (f). It also fails to meet the criteria for any other legal disqualification. *See* 8 U.S.C. §§ 1422, 1423, 1424, 1425, 1427, 1429.

Even assuming that an investigation would have disclosed that Mr. Chavez sexually abused his daughter, that also would not constitute a requisite legal disqualification. *See Maslenjak*, 137 S. Ct. at 1929. The definition of aggravated felony conviction includes "sexual abuse of a minor." 8 U.S.C. § 1101(a)(43)(A). Under that provision, anyone who is or was convicted of sexual abuse of a minor during the five-year period prior to naturalization lacks good moral character. However, even assuming that further investigation would have predictably disclosed that Mr. Chavez sexually abused his minor daughter, it could not have disclosed that Mr. Chavez had been **convicted** of sexual abuse of a minor at that time. The statutory language clearly requires a conviction for sexual abuse of a minor. Thus, even assuming that an investigation would have revealed that Mr. Chavez sexually abused his daughter, Mr. Chavez would not have been legally disqualified. 8 U.S.C. §§ 1101, 1422, 1423, 1424, 1425, 1427, 1429. As such, the government, as a matter of law, failed to prove that any if Mr. Chavez had answered either question with a "yes," that any subsequent investigation would have predictably disclosed any legal disqualification. *See Maslenjak*, 137 S. Ct. at 1929.

Catch All Provision

None of the other specific factors listed in 8 U.S.C. § 1101(f) applies to Mr. Chavez. Following the specific list of specific factors demonstrating lack of good moral character, the section provides that "[t]he fact that any person is not within any of the following 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). However, that catch all provision does not provide unlimited authority to find lack of good moral character. Under the cannon of *ejusdem generis*, "a general or collective term at the end of a list of specific items is typically controlled and defined by reference to the specific classes that precede it." *Fischer v. United States*, 603 U.S. 480, 487 (2024) (internal citations and quotations omitted); *see also Southwest Airlines v. Saxon*, 596 U.S. 450, 458 (2022) (a Court "interpret[s] a 'general or collective term' at the end of a list of specific items in light of any 'common attributes' shared by the specific items."). Application of that cannon "track[s] the commonsense intuition that Congress would not ordinarily introduce a general term that renders meaningless the specific text that accompanies it." *Fischer*, 603 U.S. at 487.

If "other reasons" were read to mean any reason at all, then the catch all provision would swallow up all of the specific reasons listed in § 1101(f) and make them completely meaningless and superfluous. The well-established rule of statutory construction against surplusage makes clear that "a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence or word shall be superfluous, void, or insignificant." *Market Co. v. Hoffman*, 101 U.S. 112, 115 (1879); *see also Duncan v. Walker,* 533 U.S. 167, 174 (2001); *Ratzlaf v. United States*, 510 U.S. 135, 140-141 (1994). In addition, having "other reasons" mean any reason at all also runs the risk of having the catch all provision be void for vagueness. A statute is unconstitutionally vague if it "is so standardless that it authorizes or encourages seriously discriminatory enforcement" or if it "fails to provide a person of ordinary intelligence fair notice of what is prohibited." *United States v. Williams*, 553 U.S. 285, 304 (2008).

However, application of the cannon of *ejusdem generis* avoids those potential pitfalls. Application of the cannon of *ejusdem generis* requires that the term "other reasons" in § 1101(f) to be "controlled and defined" by the specific terms that preceded it with an eye toward "common attributes" of the specific terms. With regard to the commission of unlawful acts, the specific list of factors that demonstrate a lack of good moral character generally require a conviction for that specific offense during the statutory period. *See* 8 U.S.C. §§ 1101(f)(3) (conviction of drug offense); (f)(5) (conviction of two or more gambling offenses); (f)(8) (convicted of aggravated felony). In addition, section 1101(f)(8) further incorporates into the list convictions for a long list of offenses, of which child abuse is not one. 8 U.S.C. § 1101(a)(43). Thus, at most, the catch all provision for "good moral character" in section 1101(f) might support a finding of lack of moral character for a child abuse **conviction** during the statutory period, but certainly not for a commission of that offense during the statutory period with no conviction until after Mr. Chavez was a United States Citizen. *See Fischer*, 603 U.S. at 487; *Southwest Airlines*, 596 U.S. at 458.

C.F.R. Definition of Good Moral Character

The Department of Homeland Security issued regulations further defining the requirement for good moral character during the statutory period. 8 C.F.R. § 316.10. That regulation also has a list of specific acts which constitute a lack of good moral character, most of which echo the specific list in 8 U.S.C. § 1101(f). 8 C.F.R. § 316.10(b). One of those specific provisions in the regulation however adds that "[u]nless the applicant establishes extenuating circumstances, the applicant shall be found to lack good moral character if, during the statutory period, the applicant – **[c]omitted unlawful acts** that adversely reflect upon the applicant's moral character, or was convicted or imprisoned for such acts, although the acts do not fall within the purview of § 316.10(b)(1) or (2)." 8 C.F.R. § 316.10(b)(3) (emphasis added). However, to the extent that the regulation seeks to add a specific reason to find a lack of good moral character that is not in section 1101(f) and, as noted above, is not consistent with the specific reasons listed in section 1101(f) under the cannon of *ejusdem generis*, this Court cannot rely on that regulation in determining whether the government proved Mr. Chavez's guilt under 18 U.S.C. § 1425(a) beyond a reasonable doubt.

This Court's precedent makes it clear that this Court owes no deference to the regulations issued by the Department of Homeland Security defining the requirement for good moral character during the statutory period in 8 C.F.R. § 316.10. Specifically, this Court recently overruled decades-long precedent regarding giving any deference to an agency's regulations. *See Loper Bright*, 603 U.S. at 412-413. In doing so, this Court made clear that it was an error for a federal court to defer to a legal interpretation or decision of an administrative agency, and that the court must make those legal decisions independent of agency interpretation. *Id.* Under *Loper Bright*, this Court cannot rely on the agency's regulations as to what attributes demonstrate a lack of good moral character. Thus, it would be error to rely on 8 C.F.R. § 316.10 for any assistance in determining whether the government proved Mr. Chavez's guilt beyond a reasonable doubt. Under *Loper*, this court must resolve any ambiguity in determining qualifications for good moral character on its own applying standard tools of construction. As argued in more detail above, application of the standard tools of construction, including the cannon of *ejusdem generis,* to 8 U.S.C. § 1101(f) leads to the conclusion that to the extent a child abuse offense may be seen as legally disqualifying someone for lack of good moral character, § 1101(f) requires a **conviction** on that offense during the statutory period and not after someone becomes a citizen. *See Fischer*, 603 U.S. at 487; *Southwest Airlines*, 596 U.S. at 458.

As argued above, application of the cannon of *ejusdem generis* to 8 U.S.C. § 1101(f) leaves no genuine ambiguity. That statute provides very specific reasons to find a lack of good moral character and the one sentence which may be seen as a catch all phrase is "controlled and defined" by the specific terms that preceded it so that to the extent that a child abuse offense may be seen as legally disqualifying someone for lack of good moral character, that requires a **conviction** on that offense during the statutory period and not after someone becomes a citizen. *See Fischer*, 603 U.S. at 487; *Southwest Airlines*, 596 U.S. at 458. Thus, the agency's interpretation of good moral character, which directly contradicts that unambiguous reading, is due no deference under *Loper Bright*.

Because the facts that Mr. Chavez misrepresented on his naturalization application were not themselves legally disqualifying nor predictably disclosable of facts which would have rendered him legally disqualified, the government, as a matter of law, failed to prove Mr. Chavez guilty beyond a reasonable doubt as to Count One of the indictment. *See Maslenjak*, 137 S. Ct. at 1928. In fact, the evidence presented at trial, actually supported Mr. Chavez's argument in his Rule 29 motion that he was legally qualified for naturalization, which provides a complete defense to the charges against him. *See Maslenjak*, 137 S. Ct. at 1930.

Count Two

Mr. Chavez was also convicted of one count of misuse of evidence of citizenship or naturalization in violation of 18 U.S.C. § 1423. That statute makes it a federal crime for anyone to knowingly use a certificate of naturalization that was unlawfully issued or made. 18 U.S.C. § 1423. As argued by the government and instructed by the Court, Mr. Chavez's conviction as to Count two was directly tied to a finding of guilt as to count one.

At trial, the government presented evidence that Mr. Chavez used his certificate of naturalization to obtain a United States passport. Specifically, Ms. Aura Arauz-Figueroa, a State Department employee in the Miami Passport Agency, testified that Mr. Chavez applied for a United States passport at a United States Post Office in Hialeah using his driver's license and his naturalization certificate. DE 78 at 381-394. A finding that Mr. Chavez unlawfully procured his naturalization certificate, leads to a finding that Mr. Chavez knowingly used a certificate of naturalization that was unlawfully issued or made in violation 18 U.S.C. § 1423. However, failure to prove that Mr. Chavez unlawfully procured his naturalization certificate, leads to a conclusion that the government also failed to prove that Mr. Chavez knowingly used a certificate of naturalization that was unlawfully issued or made in violation 18 U.S.C. § 1423.

As argued above, the government failed to prove beyond a reasonable doubt that Mr. Chavez unlawfully procured his naturalization certificate. Because the government failed to prove that Mr. Chavez's naturalization certificate was unlawfully obtained or issued, it follows that the government failed to prove beyond a reasonable doubt that Mr. Chavez knowingly used a certificate of naturalization that was unlawfully issued or made in violation 18 U.S.C. § 1423.

In sum, the Eleventh Circuit was only able to affirm Mr. Chavez's convictions by giving complete deference to an agency's regulations. This Court's precedent makes clear that such deference was legally erroneous. Absent that deference, it is clear that the government failed to prove, as a matter of law, that there was any legal disqualification that could have been uncovered. This Court should grant Mr. Chavez's petition for a writ of certiorari to the Eleventh Circuit, to not only correct that egregious error in his case, but also to ensure that the same error is not replicated in the upcoming prosecutions.

CONCLUSION

Based upon the foregoing petition, the Court should grant a writ of certiorari to the Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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