

No. 26-

IN THE
Supreme Court of the United States

JOSE MANUEL MENDOZA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a defendant seeking to vacate a conviction on Sixth Amendment grounds must produce contemporaneous plea-stage evidence to establish prejudice under *Padilla v. Kentucky* and *Lee v. United States*, or whether prejudice must be evaluated from the totality of the circumstances, including the defendant's ties to the United States and the centrality of avoiding permanent exile.

2. Whether, after *Padilla* rejected the direct-collateral distinction as “ill-suited” to immigration consequences, a court may sustain a guilty plea entered without any specific advisement that the plea would trigger a mandatory, automatic, and permanent bar to lawful status and reentry.

**LIST OF PARTIES AND
RELATED PROCEEDINGS**

The parties are identified in the caption. Petitioner is Jose Manuel Mendoza. Respondent is the United States of America.

Petitioner is an individual. No corporate disclosure statement is required.

The directly related proceedings are:

- *United States v. Mendoza Robledo*, No. 3:13-cr-00358-BTM-2 (S.D. Cal.), criminal judgment entered Feb. 8, 2013.
- *United States v. Mendoza Robledo*, No. 3:13-cr-00358-BTM-2 (S.D. Cal.), Order Denying Petition for Writ of Error Coram Nobis, entered May 2, 2025 (reproduced at App. B, APP. 4a–8a).
- *United States v. Mendoza*, No. 25-3558 (9th Cir.), memorandum disposition entered Apr. 24, 2026 (reproduced at App. A, APP. 1a–3a).

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OPINIONS BELOW

The unpublished memorandum disposition of the United States Court of Appeals for the Ninth Circuit in *United States v. Mendoza*, No. 25-3558 (9th Cir. Apr. 24, 2026), is reproduced in Appendix A at APP. 1a–3a. The order of the United States District Court for the Southern District of California denying the petition for writ of error coram nobis in *United States v. Mendoza Robledo*, No. 3:13-cr-00358-BTM-2 (S.D. Cal. May 2, 2025), is reproduced in Appendix B at APP. 4a–8a.

JURISDICTION

The district court had jurisdiction under 28 U.S.C. § 1651(a). The court of appeals had jurisdiction under 28 U.S.C. § 1291. The court of appeals entered judgment on April 24, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is timely under Supreme Court Rule 13.1 because it is filed within 90 days of the judgment below.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment provides, in relevant part, that no person shall “be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

The Sixth Amendment provides, in relevant part, that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.” U.S. Const. amend. VI.

Relevant statutory and rule provisions include 28 U.S.C. §§ 1254(1) and 1651(a), 18 U.S.C. §§ 911 and 1542, 8 U.S.C. § 1182(a)(6)(C)(ii), and Fed. R. Crim. P. 11(b)(1)(O). The pertinent texts of these provisions, as well as U.S. Const. amends. V and VI and Supreme Court Rules 10 and 13.1, are reproduced in Appendix C at APP. 9a–14a.

STATEMENT OF THE CASE

A. Mendoza’s background and plea

Jose Manuel Mendoza was brought to the United States as a child and raised believing he was a United States citizen. He attended American schools, served honorably in the United States Marine Corps, suffered a service-related disability, worked for the Department of the Navy for more than two decades, paid into Social Security, and built his family and home life in the United States. C.A. E.R. 12; Appellant’s Opening Br. 1–3, *United States v. Mendoza*, No. 25-3558 (9th Cir. filed Aug. 19, 2025).

In 2013, Mendoza was charged with making a false statement in a passport application, 18 U.S.C. § 1542, and falsely claiming United States citizenship, 18 U.S.C. § 911. He entered a package-disposition plea with his mother. Gov’t Answering Br. 8–9, 27–28, *United States v. Mendoza*, No. 25-3558 (9th Cir. Oct. 10, 2025). Mendoza later explained that concern for his mother’s well-being materially influenced his decision to accept the agreement. Appellant’s Opening Br. 3; Gov’t Opp’n to Pet. for Writ of Error Coram Nobis 4–5, *United States v. Mendoza Robledo*, No. 3:13-cr-00358-BTM-2 (S.D. Cal. Jan. 31, 2025), ECF No. 45.

The plea agreement warned only that the plea “may” subject him to immigration consequences, including deportation or removal. Gov’t Answering Br. 27. During the Rule 11 colloquy, the magistrate judge advised only that Mendoza would “likely be deported.” Gov’t Answering Br. 28. Mendoza’s former counsel, David L. Baker, did not recall giving Mendoza any case-specific advice about the immigration consequences of the plea and admitted in a sworn declaration that “[i]t’s not my practice to make immigration predictions to my clients” and that “[i]t would not be my practice to give immigration advice at the time of sentencing.” C.A. E.R. 22. On this record, neither counsel nor the court ever informed Mendoza that his plea would trigger a mandatory, automatic, and permanent bar to lawful status and reentry under 8 U.S.C. § 1182(a)(6)(C)(ii). Appellant’s Opening Br. 2–3, 20–23. He received a 31-day time-served sentence and completed supervised release in 2015. Dist. Ct. Order 1.

B. The immigration consequence and coram nobis proceedings

Mendoza later learned that his convictions triggered a statutory lifetime bar under 8 U.S.C. § 1182(a)(6)(C)(ii). Appellant’s Opening Br. 2–3, 20–23; Dist. Ct. Order 6–7. The short custodial sentence was temporary; permanent exclusion from the country where he had lived his entire meaningful life was the real and enduring consequence. Dist. Ct. Order 6–7.

In his coram nobis petition, Mendoza explained that, by his understanding, Baker had advised him that pleading guilty would result in only a five-year bar on attempts to obtain immigration status, not a permanent

bar. The government's response summarized Mendoza's allegation in those terms and contrasted that alleged five-year-bar advice with the actual lifetime bar under § 1182(a)(6)(C)(ii). Gov't Opp'n to Pet. for Writ of Error Coram Nobis 1–2, 4–5, *United States v. Mendoza Robledo*, No. 3:13-cr-00358-BTM-2 (S.D. Cal. Jan. 31, 2025), ECF No. 45.

After learning the true consequence of his plea and after a meaningful immigration path became newly relevant through his wife's immigration status, Mendoza sought post-conviction relief. Appellant's Opening Br. 23–27. His wife did not become a lawful permanent resident until August 19, 2024, and before then he was not meaningfully situated to pursue family-based adjustment relief; combined with Baker's advice that any bar was only five years, there was no apparent reason to pursue extraordinary relief sooner. C.A. E.R. 13; Appellant's Opening Br. 23–27.

Baker stated that he did not recall the specifics of plea discussions with Mendoza, but also admitted that it was not his practice “to make immigration predictions” to clients and not his practice “to give immigration advice at the time of sentencing.” C.A. E.R. 22. The government opposed relief on multiple grounds, including delay, the argument that the immigration bar flowed from Mendoza's conduct rather than his conviction, and the argument that the plea colloquy and plea agreement foreclosed relief. Gov't Opp'n to Pet. for Writ of Error Coram Nobis 4–13, ECF No. 45. The district court denied the petition primarily because Mendoza had not shown a valid reason for delay and had not shown that the lifetime bar arose from the conviction rather than the underlying conduct itself. Dist. Ct. Order 5–7.

C. The decision below

On appeal, Mendoza argued that his plea was not knowing, intelligent, and voluntary under the Fifth Amendment; that counsel was ineffective under *Padilla*; that any delay was explained by the timing of his wife's lawful permanent resident status; and that *United States v. Amador-Leal*, 276 F.3d 511 (9th Cir. 2002), cannot survive *Padilla* unchanged. The government argued untimeliness, defended *Amador-Leal*, contended there was no duty to warn about post-removal consequences, and argued Mendoza could not show prejudice.

The Ninth Circuit assumed deficient performance, did not address Mendoza's Fifth Amendment argument, did not address the conflict between *Padilla* and *Amador-Leal*, did not rely on untimeliness or the conduct-versus-conviction rationale, and affirmed solely because Mendoza did not present evidence "contemporaneous to the guilty plea" showing that he would have gone to trial. App. A, at 3 (APP. 3a).

REASONS FOR GRANTING THE PETITION

I. The decision below conflicts with this Court's prejudice analysis in *Padilla* and *Lee*.

Review is warranted because the decision below conflicts with this Court's decisions and departs from the practical prejudice inquiry those decisions require. *See* Sup. Ct. R. 10(c). In *Strickland v. Washington*, 466 U.S. 668 (1984), this Court held that a defendant establishes prejudice by showing a reasonable probability that, but for counsel's errors, the result of the proceeding would have

been different. *Id.* at 694. In *Padilla*, 559 U.S. at 365–66, this Court recognized that immigration consequences may be the determinative factor in a defendant’s decision whether to plead guilty. In *Lee*, 582 U.S. 357 (2017), this Court held that a defendant can establish prejudice where, in light of his circumstances, it would have been rational to reject a plea in order to avoid removal, even if conviction at trial was likely. *Id.* at 367–69. By imposing a rigid evidentiary requirement that *Lee* does not contain, the Ninth Circuit decided an important question of federal law in a way that conflicts with *Padilla* and *Lee*, warranting review under Rule 10(c). App. A, at 3 (APP. 3a).

The Ninth Circuit imposed a rigid requirement that *Lee* does not contain. It demanded evidence “contemporaneous to the guilty plea.” App. A, at 3 (APP. 3a). That requirement is especially harsh for deported, noncustodial defendants, who are least able to generate or preserve formal plea-stage evidence years after the fact—and whose “contemporaneous” record typically consists of the very plea and colloquy they now challenge as inadequately advised. The prejudice inquiry under *Lee* asks whether, in light of the defendant’s circumstances, it would have been rational to reject the plea in order to avoid removal—even if conviction at trial was likely—not whether the defendant happened to create a contemporaneous paper trail. *See Lee*, 582 U.S. at 367–69.

This case illustrates the problem clearly. Mendoza lived essentially his whole life in the United States, served in the Marine Corps, worked for the federal government, paid into Social Security, and built his family and identity here. C.A. E.R. 12; Appellant’s Opening Br. 1–3. He also accepted a package-disposition plea that, by his account,

was materially influenced by concern for his mother's well-being. Appellant's Opening Br. 3; Gov't Opp'n 4–5. His sentence was 31 days; permanent exile is the consequence that matters. Dist. Ct. Order 1, 6–7. Counsel admitted that he did not provide immigration advice. C.A. E.R. 22. And the court warned only of likely deportation, not a mandatory permanent bar to lawful status and reentry. Dist. Ct. Order 6–7; Appellant's Opening Br. 2–3, 20–23. Under *Lee*, it is rational and foreseeable that a person in Mendoza's position would want above all to avoid permanent deportation from the only country he had meaningfully known. *Lee*, 582 U.S. at 367–69.

The decision below also places the burden in the wrong place. *Padilla* recognized the special complexity of immigration consequences and rejected a framework that would ignore the realities facing noncitizen defendants. 559 U.S. at 365–66. The plea framework assumes reliance on counsel and court advisements, not independent mastery of immigration law by defendants. Mendoza had no realistic way in 2013 to discover on his own the interaction between 18 U.S.C. §§ 1542 and 911 and 8 U.S.C. § 1182(a)(6)(C)(ii), particularly when counsel himself did not provide the required advice. C.A. E.R. 22; Appellant's Opening Br. 20–23.

This question is important and recurring. Noncitizen pleas are common, and coram nobis is often the only available remedy once custody ends. Dist. Ct. Order 5–7. Large numbers of noncitizen pleas each year carry serious immigration consequences, yet the decision below invites lower courts to nullify *Padilla* and *Lee* by demanding evidence that deported, noncustodial defendants predictably do not have. App. A, at 3 (APP. 3a).

II. The case presents an important and unresolved question whether a guilty plea may stand when no one specifically advised the defendant that the plea would trigger a mandatory and permanent immigration bar.

Review is independently warranted because the decision below leaves unresolved a recurring constitutional question of exceptional importance. *See* Sup. Ct. R. 10(c). *Padilla* held that the direct-collateral distinction is “ill-suited” to immigration consequences. 559 U.S. at 366. Immigration consequences are uniquely severe and tightly linked to the criminal process. Yet the government argued below that neither counsel nor court was required to advise Mendoza of the permanent post-removal consequence and that *Amador-Leal* remained binding. Gov’t Answering Br. 22–30; *Amador-Leal*, 276 F.3d at 514–15.

The question whether courts may sustain pleas that carry mandatory and permanent immigration penalties based only on generic warnings is important and recurring. Mendoza’s plea was not knowing, intelligent, and voluntary if the consequence that most mattered was never disclosed. A guilty plea is valid only if entered knowingly, intelligently, and voluntarily. *Boykin v. Alabama*, 395 U.S. 238, 242–44 (1969); *Brady v. United States*, 397 U.S. 742, 747–48 (1970). Mendoza received only a generic “likely deported” warning and a plea-agreement reference to possible immigration consequences. Dist. Ct. Order 2–3, 6–7; Appellant’s Opening Br. 2–3, 20–23. He was never informed that his plea would trigger a mandatory, automatic, and permanent bar to lawful status and return under 8 U.S.C. § 1182(a)(6)(C)(ii), or that the loss of lawful status would also foreclose access to the

Social Security benefits he had spent decades funding. Dist. Ct. Order 6–7; C.A. E.R. 12–13.

The Sixth Amendment problem is equally clear. Baker admitted that he did not make immigration predictions and did not provide immigration advice. C.A. E.R. 22. Mendoza further alleged that Baker told him his plea would result in only a five-year bar on immigration attempts, when in fact the law imposed a mandatory, permanent bar under § 1182(a)(6)(C)(ii). Gov’t Opp’n 1–2, 4–5. Where the consequence was clear, *Padilla* required accurate advice, not silence or understatement. 559 U.S. at 369. If *Amador-Leal* is allowed to survive unchanged after *Padilla*, noncitizen defendants in the Ninth Circuit will continue to receive less protection than this Court required. *Amador-Leal*, 276 F.3d at 514–15.

This case is therefore an appropriate vehicle to clarify that pleas carrying mandatory and permanent immigration penalties cannot be sustained through generic warnings and silence from counsel.

III. This case is an excellent vehicle for review.

This case cleanly presents the questions whether the Ninth Circuit’s prejudice rule is consistent with *Lee* and whether a plea may stand when the defendant was never specifically advised of a mandatory and permanent immigration bar. *See Lee*, 582 U.S. at 367–69. Mendoza preserved both the Fifth and Sixth Amendment theories in the court of appeals. Appellant’s Opening Br. 12–27. The government joined issue on those arguments and cited both *Lee* and *Amador-Leal*. Gov’t Answering Br. 18–30. The Ninth Circuit decided only prejudice, making the *Lee*

question especially clean. App. A, at 2–3 (APP. 2a–3a). This case thus presents a clean vehicle to resolve both questions presented in a single, straightforward record.

The unpublished disposition does not diminish the need for review. What matters is that the court of appeals applied a legal standard that conflicts with this Court’s decisions and left unresolved a preserved constitutional question about the validity of a plea carrying mandatory and permanent immigration penalties. *See* Sup. Ct. R. 10(c); App. A, at 2–3 (APP. 2a–3a).

The equities underscore the stakes without complicating the legal issues. Mendoza is no longer in custody, yet he faces continuing and grave consequences from a plea allegedly entered without constitutionally adequate advice and understanding. He has worked in the United States for decades and estimates that he has paid more than \$200,000 into Social Security, yet his lack of lawful status now prevents him from receiving the benefits he funded—a consequence no one explained at the time of his plea. Dist. Ct. Order 5–7; C.A. E.R. 12–13. *Coram nobis* exists for precisely such cases, where no ordinary remedy remains. *United States v. Morgan*, 346 U.S. 502, 512–13 (1954).

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — MEMORANDUM OF THE
UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT, FILED APRIL 24, 2026**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 25-3558
D.C. No. 3:13-cr-00358-BTM-2

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.

JOSE MANUEL MENDOZA,
Defendant-Appellant.

Filed April 24, 2026

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry Ted Moskowitz, District Judge, Presiding

Submitted April 22, 2026**
Pasadena, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appendix A

Before: FRIEDLAND and MILLER, Circuit Judges, and SCARSI, District Judge.^{***}

In 2013, Jose Manuel Mendoza, a citizen of Mexico, pleaded guilty to falsely claiming United States citizenship, in violation of 18 U.S.C. § 911, and making false statements in a passport application, in violation of 18 U.S.C. § 1542. He was sentenced to 31 days of imprisonment. In 2024, he filed a petition for a writ of error coram nobis seeking to vacate his convictions. Mendoza argued that he was denied effective assistance of counsel because his counsel did not advise him that his guilty plea would result in a lifetime bar to immigration to the United States. The district court denied the petition. Mendoza appeals. We have jurisdiction under 28 U.S.C. § 1291, and we review de novo a denial of a writ of error coram nobis. *United States v. Riedl*, 496 F.3d 1003, 1005 (9th Cir. 2007). We affirm.

“Coram nobis is an ‘extraordinary remedy’ available ‘only under circumstances compelling such action to achieve justice.’” *United States v. Kroytor*, 977 F.3d 957, 961 (9th Cir. 2020) (quoting *United States v. Morgan*, 346 U.S. 502, 511 (1954)). It is available only when the petitioner can show, among other things, “an error of the most fundamental character.” *Cervantes-Torres v. United States*, 169 F.4th 868, 873 (9th Cir. 2026).

To obtain coram nobis relief premised on a claim of ineffective assistance of counsel, a defendant must

^{***} The Honorable Mark C. Scarsi, United States District Judge for the Central District of California, sitting by designation.

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show not only “that counsel’s performance was deficient” but also “that the deficient performance prejudiced the defense.” *Strickland v. Washington*, 466 U.S. 668, 687 (1984). A defendant can “demonstrate prejudice by showing ‘a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.’” *Lee v. United States*, 582 U.S. 357, 364 (2017) (quoting *Roe v. Flores-Ortega*, 528 U.S. 470, 482 (2000)). When the claim of ineffectiveness is based on counsel’s failure to advise the defendant about the immigration consequences of a guilty plea, demonstrating prejudice requires the defendant to provide “evidence contemporaneous to the guilty plea,” including “evidence of how important immigration consequences were to the defendant at the time he pleaded guilty.” *United States v. Rodriguez*, 49 F.4th 1205, 1214 (9th Cir. 2022).

Assuming that Mendoza’s counsel’s performance was deficient, Mendoza has not established prejudice. To show prejudice, Mendoza needed to “demonstrate that absent his attorney’s incompetence,” he would “‘rational[ly]’ have ‘reject[ed] the plea bargain’ and would . . . ‘have gone to trial.’” *Rodriguez*, 49 F.4th at 1213 (alterations in original) (quoting *United States v. Rodriguez-Vega*, 797 F.3d 781, 788 (9th Cir. 2015)). Although he asserts otherwise in his brief, Mendoza provides no evidence that, but for counsel’s errors, he would have opted for trial. Because he did not do so, the district court correctly denied his petition for coram nobis relief.

AFFIRMED.

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**APPENDIX B — ORDER DENYING PETITION
FOR WRIT OF ERROR CORAM NOBIS OF
THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF CALIFORNIA,
DATED MAY 2, 2025**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 13cr358-BTM-2

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE MANUEL MENDOZA ROBLEDO,

Defendant.

**ORDER DENYING PETITION FOR
WRIT OF ERROR CORAM NOBIS
[ECF NO. 39]**

1. BACKGROUND

Pending before the Court is Jose Manuel Mendoza Robledo's petition for a writ of error coram nobis. (ECF No. 39). On January 31, 2013, Petitioner pleaded guilty to making a false statement in an application for a passport, contrary to 18 U.S.C. § 1542. (ECF Nos. 1 & 21). Petitioner was sentenced to time served and two years of supervised release on February 8, 2013. (ECF Nos. 30 & 34).

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He filed the petition for a writ of coram nobis on December 3, 2024. (ECF No. 39). Petitioner claims his plea was involuntary because (1) he thought he was a U.S. citizen and thus did not know he was making a false statement on the passport application, (2) he was coerced into pleading guilty by the Government's threats to prosecute his mother and request a substantial prison term against him, and (3) his attorney, David Baker, misled him by telling him that his conviction would result in a five-year bar on immigration when in fact he is barred for life. (Id.).

The Government in response argues that the petition must be denied because (1) Petitioner unreasonably delayed in bringing his petition, (2) there is no evidence showing that his lifetime ban resulted from his conviction rather than his conduct, (3) his remaining claims of involuntariness are inconsistent with "his prior admissions, signed plea agreement, and statements made under oath during the Rule 11 plea colloquy." (ECF No. 45).

2. CORAM NOBIS

As the Ninth Circuit has stated:

A writ of error coram nobis affords a remedy to attack a conviction when the petitioner has served his sentence and is no longer in custody. The writ aids those suffering from the lingering collateral consequences of an unconstitutional or unlawful conviction based on errors of fact and egregious legal errors. Coram nobis is an

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extraordinary remedy available only under circumstances compelling such action to achieve justice. To qualify for this extraordinary remedy, the petitioner must establish four requirements: (1) the unavailability of a more usual remedy; (2) valid reasons for the delay in challenging the conviction; (3) adverse consequences from the conviction sufficient to satisfy Article III's case-and-controversy requirement; and (4) an error . . . of the most fundamental character.

United States v. Yuly Kroytor, 977 F.3d 957, 961 (9th Cir. 2020) (quotation marks and citations omitted). For the second factor, the delay in challenging the conviction, petitioners must show “a valid or sound reason” for the delay. *Id.* If a claim can reasonably be raised, a delay would preclude relief. *Id.* But a petitioner’s delay is not a bar to relief if it was “due to misadvice from his attorney that he had no reason to know was erroneous.” *Id.* at 962.

3. DISCUSSION

The Court finds that Petitioner has failed to meet the requirements for a writ of error coram nobis. Petitioner claims he is innocent of the crime of conviction and was coerced by the Government into pleading guilty. But such claims could have been asserted over a decade ago. Petitioner has not presented a valid basis to excuse the delay. Petitioner’s assertion of innocence and coercion claims are also flatly inconsistent with his plea colloquy and the plea agreement. (ECF Nos. 19 & 43).

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Petitioner’s immigration-consequences claim also fails to overcome the second requirement. Petitioner alleges that his attorney told him his conviction would result in a five-year immigration bar when in fact his conviction bars him for life. The Court similarly finds that Petitioner has not presented a valid basis to excuse his delay in raising this argument. Even assuming Petitioner was told he would have a five-year bar, he has not attempted to explain why he did not pursue immigration after those five years.

Petitioner was convicted in 2013, and thus (if his allegation is true) he believed he could try to immigrate in 2018. But his petition was not filed until 2024. Petitioner does not explain this nearly seven-year delay. The Court holds that Petitioner has failed to show a valid basis for the nearly seven-year delay. *See Aceituno v. United States*, 132 F.4th 563 (1st Cir. 2025) (explaining that the petitioner was not diligent in pursuing a coram nobis petition because he did nothing for four years to “further his purported goal of reentering the United States”); *United States v. Ortiz*, 848 Fed. Appx. 276, 278 (9th Cir. 2021) (finding delay unjustified where the petitioner did nothing to learn his immigration status).

Further, Petitioner has not shown that he is barred for life from obtaining lawful status in the United States because of his *conviction*, rather than his *conduct*. *See* 8 U.S.C. § 1182(a)(6)(C)(ii)(I); *Castro v. AG of the United States*, 671 F.3d 356 (3d Cir. 2012) (reviewing the BIA’s determination that 8 U.S.C. § 1182(a)(6)(C)(ii) applied to certain conduct, where there was no underlying conviction); *Valadez-Munoz v. Holder*, 623 F.3d 1304, 1308

Appendix B

(9th Cir. 2010) (“There can be no doubt that an alien ‘who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this chapter . . . or any other Federal or State law is inadmissible.’”).

In short, Petitioner has failed to meet the requirements for a writ of error coram nobis.

4. CONCLUSION

For the reasons stated, the petition for a writ of error coram nobis is **denied**. The hearing scheduled for May 15, 2025, at 2:00 p.m. is **vacated**, and the motion to continue the hearing is **denied** as moot.

IT IS SO ORDERED.

Dated: May 2, 2025

s/ Barry Ted Moskowitz
Honorable Barry Ted Moskowitz
United States District Judge

APPENDIX C — CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor 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; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

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28 U.S.C. § 1254(1)

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

- (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

28 U.S.C. § 1651(a)

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

18 U.S.C. § 911

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined under this title or imprisoned not more than three years, or both.

18 U.S.C. § 1542

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

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Whoever willfully and knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a)(2))), 10 years (in the case of a first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

8 U.S.C. § 1182(a)(6)(C)(ii)**(ii) Falsely claiming citizenship****(I) In general**

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this chapter (including section 1324a of this title) or any other Federal or State law is inadmissible.

(II) Exception

In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive

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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 making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

Fed. R. Crim. P. 11(b)(1)(O)

(b) Considering and Accepting a Guilty or Nolo Contendere Plea.

(1) Advising and Questioning the Defendant. Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

(O) that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

*Appendix C***Sup. Ct. R. 10**

Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;
- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

*Appendix C***Sup. Ct. R. 13.1**

Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort or a United States court of appeals (including the United States Court of Appeals for the Armed Forces) is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment. A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review.