

APPENDIX

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APPENDIX A

No. 25-1523

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

UNITED STATES OF
AMERICA,

Plaintiff-Appellee,

v.

KARNAIL SINGH,

Defendant-Appellant.

O R D E R

BEFORE: GRIFFIN, THAPAR, and
NALBANDIAN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court.* No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

**ENTERED BY ORDER
OF THE COURT**

Kelly L. Stephens

Kelly L. Stephens, Clerk

* Judge Hermandorfer is recused in this case.

APPENDIX B
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
KARNAIL SINGH,
Defendant-Appellant.

No. 25-1523

Appeal from the United States District Court for the
Eastern District of Michigan at Detroit.
No. 2:13-cr-20551-1—David M. Lawson, District Judge.
Decided and Filed: May 5, 2026
Before: GRIFFIN, THAPAR, and NALBANDIAN,
Circuit Judges.

COUNSEL

ON BRIEF: Firooz T. Namei, MCKINNEY & NAMEI
CO., L.P.A., Cincinnati, Ohio, for Appellant. Jessica V.
Currie, UNITED STATES ATTORNEY'S OFFICE,
Detroit, Michigan, for Appellee.

THAPAR, J., delivered the opinion of the court in
which NALBANDIAN, J., joined, and GRIFFIN, J.,
joined in the judgment. GRIFFIN, J. (pp. 11–12),
delivered a separate concurring opinion concurring in the

judgment only.

OPINION

THAPAR, Circuit Judge. Karnail Singh, a naturalized U.S. citizen, pled guilty to using a passport that he fraudulently obtained. He now seeks to set aside that conviction, claiming he received ineffective assistance of counsel. Singh argues that his attorney should have explained that his guilty plea could lead to denaturalization. But the Sixth Amendment doesn't require attorneys to advise naturalized citizens that a guilty plea may carry the risk of denaturalization and eventual deportation. So we affirm.

I.

Karnail Singh, a native of India, illegally entered the United States decades ago and then applied for asylum. The government denied that application and ordered him deported. But that didn't deter Singh. Instead of leaving the country, he submitted another asylum application listing a different name, birth date, place of birth, and parents. None of this new information was true.

Singh then married an American citizen and applied for permanent-resident status, using the same false information listed on his second asylum application. On that residency application, Singh claimed that he had never been denied an immigration benefit and had never provided false information on an immigration form before. Of course, neither statement was true. But based on these misrepresentations, the government granted Singh permanent-resident status. A few years later, Singh

became a naturalized U.S. citizen.

As a new citizen, Singh obtained a U.S. passport. Following a trip abroad, he attempted to reenter the United States using that passport. Officers at the border crossing asked Singh if he had ever used any other names or birth dates. Singh replied that he hadn't. But that, once again, wasn't true. So the government charged him with using a fraudulently obtained passport and making a false statement to federal agents.

Singh eventually pled guilty to the fraudulent-passport charge, and the government agreed to dismiss the false-statement charge. Singh's plea agreement warned that his guilty plea could "affect or even foreclose his eligibility to remain in this country." R. 16, Pg. ID 43. Nevertheless, Singh agreed that his decision to plead guilty was "wholly independent of the immigration consequences." *Id.* at 44. Then, at the plea hearing, the district court explained that Singh's guilty plea could "be used if the immigration services bring a petition to cancel [his] citizenship." R. 22, Pg. ID 127. Singh confirmed that he understood and proceeded to plead guilty. The district court ultimately sentenced Singh to 12 months' probation.

A few years later, the government began proceedings to denaturalize Singh. The government alleged that Singh illegally procured his citizenship because he wasn't lawfully admitted to the United States, committed fraud on his permanent-residency application, and made willful misrepresentations on his naturalization application. It also alleged that Singh lacked good moral character—and was thus ineligible for naturalization—because he made false statements in his citizenship application and interview. The government argued that the factual basis in Singh's guilty plea "substantiates his concealment and

use of two identities throughout his immigration proceedings.” R. 30-4, Pg. ID 267–68. So the government claimed that Singh couldn’t “reasonably dispute his deceptive actions.” *Id.* at 268.

Singh then petitioned for a writ of coram nobis before the district court. A coram nobis petition is used to challenge the validity of a conviction or sentence when a habeas petition isn’t available. *Chaidez v. United States*, 568 U.S. 342, 345 n.1 (2013). Singh claimed that his conviction wasn’t valid because he received ineffective assistance of counsel. According to Singh, his attorney incorrectly advised him that the plea agreement would “protect his citizenship—unless he commit[ted] another crime.” R. 25, Pg. ID 148. The district court denied the petition. We affirmed because Singh hadn’t established a reasonable probability that, but for his counsel’s advice, he would have declined to plead guilty or negotiated a better deal. *United States v. Singh*, 95 F.4th 1028, 1033–34 (6th Cir.), *cert. denied*, 145 S. Ct. 167 (2024) (mem.). At that point, the case seemed to be over.

But a few months later, the Second Circuit, sitting en banc, decided *Farhane v. United States*. 121 F.4th 353 (2d Cir. 2024) (en banc). Over multiple dissents, it held that the Sixth Amendment requires defense attorneys to advise naturalized citizens of the risk of denaturalization and eventual deportation following a guilty plea. *Id.* at 358. So Singh moved for reconsideration of the district court’s denial. The district court denied that motion, and Singh timely appealed.

II.

This appeal presents a simple legal question: Does the Sixth Amendment require a defense attorney to notify

a naturalized citizen that a guilty plea may lead to denaturalization?¹ Singh argues that our court should follow the Second Circuit’s decision in *Farhane* and conclude that the answer is yes. But *Farhane* misapplied longstanding Supreme Court precedent. Simply put, neither the Sixth Amendment nor Supreme Court precedent applying it requires attorneys to advise naturalized citizens that a guilty plea may carry the risk of denaturalization and eventual deportation.

A.

The Sixth Amendment guarantees criminal defendants’ right to the “effective assistance of competent counsel.” *Lafler v. Cooper*, 566 U.S. 156, 162 (2012). That right extends to the plea-bargaining process. *Id.* This means a defense attorney must advise his client of the direct consequences of any plea agreement, such as the maximum prison term that could be imposed. *Brady v. United States*, 397 U.S. 742, 755 (1970); *King v. Dutton*, 17 F.3d 151, 154 (6th Cir. 1994). But a defense attorney isn’t constitutionally required to inform his client of any collateral consequences stemming from the plea

¹ The concurrence thoughtfully argues that we shouldn’t address the Sixth Amendment issue because Singh’s motion doesn’t meet the standard for reconsideration. Of course, we should avoid reaching constitutional questions unless necessary. But here, Singh could be entitled to reconsideration if he identifies “a clear error of law.” *Gen. Motors, LLC v. FCA US, LLC*, 44 F.4th 548, 563 (6th Cir. 2022). Singh urges us to agree with the Second Circuit that “a straightforward application of” existing Supreme Court precedent requires defense attorneys to tell their clients about the risk of denaturalization. *Farhane*, 121 F.4th at 363. If the Second Circuit were correct, the district court’s failure to identify that rule would be a clear error of law that could entitle Singh to reconsideration. So we must address the constitutional question to resolve this appeal.

agreement. *Chaidez*, 568 U.S. at 350–51. A consequence is collateral if it “remains beyond the control and responsibility of the district court in which th[e] conviction was entered.” *Saylor v. Nagy*, No. 20-1834, 2021 WL 5356030, at *4 (6th Cir. Nov. 17, 2021) (quoting *El-Nobani v. United States*, 287 F.3d 417, 421 (6th Cir. 2002)). Examples include civil commitment, civil forfeiture, sex-offender registration, disqualification from public benefits, loss of the right to vote, ineligibility to possess firearms, loss of professional licenses, and discharge from the armed services. *Chaidez*, 568 U.S. at 349 n.5; *see also Padilla v. Kentucky*, 559 U.S. 356, 376 (2010) (Alito, J., concurring in the judgment). In short, defense attorneys must tell their clients about direct—but not collateral—consequences of a plea deal.

This distinction between direct and collateral consequences makes sense.

Start with the text of the Sixth Amendment. It guarantees an individual the right “to have the Assistance of Counsel for his defence” in “all criminal prosecutions.” U.S. Const. amend. VI. So the right to counsel is limited to assistance with the accused’s “defence” in a “criminal prosecution[.]” and doesn’t extend to advice about follow-on consequences or subsequent proceedings.

The direct-collateral distinction also accounts for the practical limitations on lawyers’ skill and knowledge. Defense attorneys may know a lot about criminal law and procedure. But they aren’t experts in other areas of the law. So it would be “unrealistic to expect them to provide expert advice on matters that lie outside their area of training and experience.” *Padilla*, 559 U.S. at 376 (Alito, J., concurring in the judgment). Indeed, providing such advice comes with significant risks. For example, the

advice might be wrong and could lead to a finding that the attorney was ineffective. Such a finding may then result in bar sanctions. *See Rodriguez-Penton v. United States*, 905 F.3d 481, 490 (6th Cir. 2018) (Thapar, J., dissenting). What’s more, clients may be worse off because they may forgo seeking advice from a real expert in the field—in this case, an immigration lawyer.

For these reasons, state and lower federal courts “almost unanimously concluded” that the Sixth Amendment doesn’t require an attorney to inform his client of a conviction’s collateral consequences, making that “one of the most widely recognized rules of American law.” *Chaidez*, 568 U.S. at 350–51 (quotation omitted).

The Supreme Court has created one notable exception to this rule. In *Padilla v. Kentucky*, the Court “breach[ed] the previously chink-free wall between direct and collateral consequences.” *Chaidez*, 568 U.S. at 352–53. It held that a defense attorney must inform an alien that a guilty plea may carry a risk of deportation. *Padilla*, 559 U.S. at 359–60. That’s because deportation is an especially “severe” consequence of a criminal conviction. *Id.* at 365. Plus, our immigration laws have increasingly linked convictions with a risk of deportation. *Id.* at 365–66. In fact, deportation has become a nearly automatic result for many aliens who are convicted of crimes in this country. *Id.* at 366. That reality made it difficult for the Court to classify deportation as either a direct or collateral consequence. *Id.* So it introduced a narrow exception based on “the unique nature of deportation.” *Id.* at 365. But the Court “did not eschew the direct-collateral divide across the board.” *Chaidez*, 568 U.S. at 355. Outside of the deportation context, the direct-collateral divide continues to apply.

Applying that settled precedent to this case provides a straightforward answer: Singh’s counsel wasn’t required to inform him of the risk of denaturalization. Civil denaturalization is a separate proceeding that requires the government to file suit in the judicial district where the naturalized citizen resides. *See* 8 U.S.C. § 1451(a). And that new suit is “beyond the control and responsibility of the district court” in which the naturalized citizen was convicted. *Saylor*, 2021 WL 5356030, at *4 (quotation omitted). In this case, the conviction and denaturalization proceedings occurred in entirely different judicial districts. Singh was convicted in the Eastern District of Michigan, and the government sought denaturalization in the Eastern District of Kentucky, where Singh resides. But even if all this litigation occurred in the same district, denaturalization is still a new and separate civil proceeding unconnected to any prior criminal “defence.” U.S. Const. amend. VI. So it’s a quintessential collateral consequence that falls outside the Sixth Amendment’s scope.

B.

Still, Singh urges us to adopt a new exception to the direct-collateral divide and hold that the Sixth Amendment requires defense attorneys to advise naturalized citizens of the risk of denaturalization. Singh primarily hangs his hat on the Second Circuit’s recent decision in *Farhane*. According to the Second Circuit, a “straightforward application of *Padilla*” requires counsel to advise his client of the risk of denaturalization and eventual deportation. *Farhane*, 121 F.4th at 363. Not so.

The Second Circuit misread *Padilla* by extending its reasoning to denaturalization. For starters, the *Padilla* Court took pains to limit its holding to advice about

deportation, noting the “unique nature” of that penalty. *Padilla*, 559 U.S. at 365–66; *see also United States v. Reeves*, 695 F.3d 637, 640 (7th Cir. 2012) (“*Padilla* is rife with indications that the Supreme Court meant to limit its scope to the context of deportation only.”). But the Second Circuit ignored those limitations and overlooked critical distinctions between deportation and denaturalization.

It’s true that deportation and denaturalization share some similarities. Both are “severe” consequences. *Fedorenko v. United States*, 449 U.S. 490, 505 (1981). Indeed, for many people around the world, American citizenship is their “highest hope.” *Schneiderman v. United States*, 320 U.S. 118, 122 (1943). After all, “nowhere in the world today is the right of citizenship of greater worth to an individual than it is in this country.” *Id.* So losing that immense privilege can be “severe and unsettling.” *Fedorenko*, 449 U.S. at 505. But many effects of a guilty plea, like losing the right to vote or being involuntarily committed to a mental institution, are also severe. And we still consider those severe consequences to be collateral. *Chaidez*, 568 U.S. at 349 n.5. So the severity of a consequence doesn’t on its own implicate the Sixth Amendment.

Rather, the *Padilla* Court was concerned with *both* the severity of deportation *and* its close connection with a criminal conviction. As *Padilla* explained, deportation for an alien is a nearly automatic consequence of many criminal convictions. 559 U.S. at 366. But the same isn’t true for denaturalization. That’s because the government retains significant discretion over whether to institute separate denaturalization proceedings.² *See* 8 U.S.C.

² Our analysis in this case is limited to civil denaturalization under section 1451(a). In contrast, section 1451(e) makes

§ 1451(a). Exercising that discretion, the government brought fewer than 150 denaturalization proceedings across the country from 1968 until 2012. Amber Qureshi, *The Denaturalization Consequences of Guilty Pleas*, 130 Yale L.J.F. 166, 170 (2020). In contrast, the government removed more than 68,000 aliens following a criminal conviction in 2024 alone. U.S. Immigr. & Customs Enf't, *Fiscal Year 2024 Annual Report* 32 (Dec. 19, 2024). These stark differences show just how rarely the government seeks denaturalization compared to deportation. But even if it sought denaturalization much more often, that wouldn't change the result. Simply put, denaturalization isn't an automatic consequence of a criminal conviction in the same way that deportation is.

What's more, denaturalization doesn't depend on whether the individual was convicted of a crime. It depends on whether he procured citizenship illegally, through concealment, or through willful misrepresentation. 8 U.S.C. § 1451(a). Citizenship is illegally procured if an individual fails to comply with all the requirements for citizenship that Congress has imposed—and many don't mention conviction. *Fedorenko*, 449 U.S. at 506. These requirements include being lawfully admitted to the United States, residing in the country for five years, and having “good moral character.” 8 U.S.C. § 1427(a). An individual lacks good moral character if, for example, he gives false testimony to secure an immigration benefit. *Id.* § 1101(f)(6). The

denaturalization “an automatic consequence of a criminal conviction under 18 U.S.C. § 1425.” *United States v. Maslenjak*, 821 F.3d 675, 682 (6th Cir. 2016), *vacated on other grounds by*, 582 U.S. 335 (2017). We express no view on whether the Sixth Amendment requires counsel to advise clients that pleading guilty to a violation of section 1425 will lead to automatic denaturalization.

immigration regulations also include a catch-all category for any individual who “[c]ommitted unlawful acts that adversely reflect upon the applicant’s moral character.” 8 C.F.R. § 316.10(b)(3)(iii). These laws and regulations all have a common theme: Denaturalization typically depends on the individual’s *conduct* leading up to or at the time of denaturalization, regardless of whether the individual was ultimately convicted for that conduct. So it’s not as closely connected to a conviction as deportation.

The denaturalization proceeding against Singh provides the perfect example. The government alleged that he illegally procured naturalization because he engaged in fraud or made willful misrepresentations and wasn’t lawfully admitted to the United States. It also alleged that he lacked good moral character because he had committed unlawful acts by lying on his naturalization form and because he gave false testimony under oath to immigration officials. All these allegations depend on Singh’s conduct leading up to his naturalization. But notice what’s missing: The government’s denaturalization complaint didn’t depend at all on whether Singh was *convicted* of a crime. In fact, Singh was eligible for denaturalization the moment he illegally procured citizenship, regardless of whether he ultimately pled guilty to federal crimes years later.

Now compare this to deportation. Under our immigration laws, being “convicted” of a wide range of criminal offenses makes an alien immediately “deportable.” *E.g.*, 8 U.S.C. § 1227(a)(2)(A)(i) (crimes of moral turpitude); *id.* § 1227(a)(2)(A)(iii) (aggravated felonies), § 1227(a)(2)(B)(i) (offenses involving controlled substances); *id.* § 1227(a)(2)(C) (firearms offenses); *id.* § 1227(a)(2)(E)(i) (domestic-violence crimes, stalking, and

child abuse). In other words, the alien's unlawful conduct isn't enough for him to be deported under those statutes. Rather, the alien must be convicted of a crime for the government to proceed with deportation using those provisions. So deportation is "intimately related to the criminal process." *Padilla*, 559 U.S. at 365. The same can't be said for denaturalization.

Granted, a guilty plea may make denaturalization easier. When seeking denaturalization, the government carries a heavy burden and must offer "clear, unequivocal, and convincing" evidence. *Fedorenko*, 449 U.S. at 505 (quotation omitted). A defendant's previous guilty plea lightens this burden by preventing him from contesting the facts underlying that conviction. And those facts may subsequently be used to justify his denaturalization. See *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 157 (1963). However, we've never held that counsel must inform a defendant that a guilty plea could be used against him in a future proceeding. In fact, we've said the opposite, noting that an attorney doesn't need to advise a defendant that a guilty plea could be introduced in a subsequent *criminal* prosecution. *King*, 17 F.3d at 153–54. If the Sixth Amendment doesn't require an attorney to notify a defendant that a guilty plea could be used against him in a future criminal prosecution with his liberty on the line, it certainly doesn't require an attorney to provide such a warning about a potential denaturalization proceeding.

In short, a criminal conviction isn't "enmeshed" with denaturalization like it is with deportation. *Padilla*, 559 U.S. at 365. So the rationale for requiring a defense attorney to advise his client of the risk of deportation following a guilty plea simply doesn't apply in the denaturalization context.

Perhaps recognizing these key distinctions, the *Farhane* court attempted to reframe *Padilla* as requiring an attorney to inform a defendant of “*any* risk” of deportation following a guilty plea. *Farhane*, 121 F.4th at 358 (emphasis added). Because denaturalization may eventually lead to deportation, the *Farhane* court reasoned that “[a] risk of denaturalization simply *is* a risk of deportation.” *Id.* at 364. It thus concluded that *Padilla* requires an attorney to advise his client of the risk of denaturalization too. *Id.*

We disagree. For starters, *Padilla*’s repeated references to “noncitizens” make clear that its holding doesn’t extend to denaturalization. *See, e.g.*, 559 U.S. at 363–66. And neither does its logic. As noted above, *Padilla* relied on both the severity of deportation *and* its close relationship with a criminal conviction. So not just “any risk” of deportation suffices to implicate the Sixth Amendment. Rather, deportation must be a nearly “automatic result.” *Id.* at 366. But deportation can hardly be considered an automatic or “virtually inevitable” consequence of a naturalized citizen’s conviction. *Id.* at 360. That’s because deportation depends on the government’s discretionary decision to first initiate denaturalization proceedings. Plus, an individual facing denaturalization may be able to assert various defenses that aren’t available to an alien who is convicted of a crime and facing deportation. *See Farhane*, 121 F.4th at 391 (Walker, J., dissenting); *see also Kungys v. United States*, 485 U.S. 759, 780–81 (1988). In short, deportation isn’t an automatic consequence of a criminal conviction for naturalized citizens. Thus, *Padilla* doesn’t require counsel to advise a defendant of the remote and contingent possibility that he could be denaturalized and then

eventually deported after pleading guilty. The *Farhane* court therefore erred by trying to shoehorn denaturalization into *Padilla*’s holding.

* * *

In sum, counsel isn’t required to advise a defendant that a guilty plea may carry a risk of denaturalization. We affirm.

CONCURRENCE

GRIFFIN, Circuit Judge, concurring in the judgment. I would not decide the Sixth Amendment question in the present case because doing so “offends the doctrine that constitutional questions that need not be addressed should be avoided.” *Waters v. Churchill*, 511 U.S. 661, 689–90 (1994) (Scalia, J., concurring); *Moody v. NetChoice, LLC*, 603 U.S. 707, 757 (2024) (Thomas, J., concurring) (“When a federal court decides an issue unnecessary for resolving a case or controversy, the Judiciary assumes authority beyond what the Constitution granted.”); *see also Spector Motor Serv. v. McLaughlin*, 323 U.S. 101, 105 (1944) (“If there is one doctrine more deeply rooted than any other in the process of constitutional adjudication, it is that we ought not to pass on questions of constitutionality . . . unless such adjudication is unavoidable.”).

Here, a narrower, nonconstitutional ground resolves this case: that the district court did not abuse its discretion in denying Singh’s motion under Federal Rule of Civil Procedure 59(e). Although the majority’s Sixth Amendment holding may be correct, I would affirm on the

Rule 59(e) basis alone. Accordingly, I concur in the judgment only.

I.

My affirmance would take the path advocated by the government. Singh moved for relief under Rule 59(e), invoking the Second Circuit’s decision in *Farhane v. United States*, 121 F.4th 353 (2d Cir. 2024) (en banc), as the basis for relitigating his claim for ineffective assistance of counsel. The district court denied the motion. We are asked to decide whether the district court abused its discretion in doing so. It did not and, therefore, should be affirmed.

Rule 59(e) allows a court to alter or amend a judgment in narrow circumstances, including, relevant here, “an intervening change in controlling law,” a “clear error of law,” or “to prevent manifest injustice.” *GenCorp, Inc. v. Am. Int’l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999) (citation modified). None is present.

Farhane is not an intervening change in controlling law. Although it was issued after judgment had been entered against Singh, and is therefore intervening, a decision from the Second Circuit is not controlling in our circuit. *Cross Mountain Coal, Inc. v. Ward*, 93 F.3d 211, 217 (6th Cir. 1996).

Singh also has not “clearly establish[ed] a manifest error of law.” *Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998) (citation modified). Even if the district court’s ruling on his Rule 59(e) motion contravened *Farhane*, a Second Circuit case, again, is not controlling. Thus, it was not a clear error of law for the district court not to follow *Farhane*’s holding.

Regarding manifest injustice, we have already held that Singh failed to show a reasonable probability that he would not have pleaded guilty had counsel advised him about any denaturalization consequences that might follow. *United States v. Singh*, 95 F.4th 1028, 1033–34 (6th Cir. 2024). He rehashes this argument now but with nothing new added. Thus, he once again fails to demonstrate prejudice, which is required to make out a successful claim of ineffective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 697 (1984). There is no manifest injustice in disposing of an unsuccessful claim.

II.

In short, a straightforward application of Rule 59(e) resolves this appeal. The majority, however, chooses to bypass a Rule 59(e) analysis and decide an important Sixth Amendment issue not argued by the government. Because the majority's disposition on constitutional grounds is not necessary, I concur in the judgment only.

APPENDIX C**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION****UNITED STATES OF
AMERICA,****Plaintiff,****v.****KARNAIL SINGH,****Defendant.****Case Number 13-
20551****Honorable David M.
Lawson****OPINION AND ORDER DENYING SECOND
MOTION FOR RECONSIDERATION OF ORDER
DENYING PETITION FOR WRIT OF CORAM
NOBIS**

Defendant Karnail Singh is the subject of a denaturalization proceeding presently pending in the United States District Court for the Eastern District of Kentucky. The basis for those proceedings appears to be his conviction of passport fraud and the facts underlying that conviction. Alleging that his guilty plea was not fully informed and that he received bad advice from his lawyer, Singh filed a petition for a writ of error *coram nobis*. The Court denied that petition on June 19, 2022 and denied Singh's subsequent motion for reconsideration on April 28, 2023. Singh, however, persists. On December 31, 2024, he filed a second motion for reconsideration, arguing that the Court should revisit its denials of relief in light of the Second Circuit's recent holding in *Farhane v. United States*, 121 F.4th 353 (2d Cir. 2024), that constitutionally

adequate representation requires defense counsel to warn naturalized citizens that a guilty plea may carry a risk of denaturalization and deportation proceedings. But even if Singh could come up with a procedure that would allow the Court to revisit its previous decisions at this late date, he has not shown how *Farhane* would — or should — alter the Court’s earlier holdings. The second motion for reconsideration will be denied.

I.

The facts of the case were discussed at length in the Court’s previous opinions. See *United States v. Singh*, No. 13-20551, 2022 WL 2209369, at *1-3 (E.D. Mich. June 19, 2022); *United States v. Singh*, 95 F.4th 1028, 1031 (6th Cir.), *cert. denied*, 145 S. Ct. 167 (2024). For convenience, the summary from the order denying the first motion for reconsideration is repeated here.

Singh, a native of India, is a naturalized citizen. He pleaded guilty to passport fraud before the Honorable Avern Cohn in January 2014 under the belief, he says, that his conviction would not cause him to be subject to immigration consequences. As outlined in the Court’s previous opinion on his petition, however, Singh was warned on the record by the Court and the government that a challenge to his citizenship remained a possibility. For instance, the plea agreement includes the following language:

Defendant’s plea to this offense will not necessarily result in immigration consequences, but, in conjunction with possible future criminal charges, his guilty plea in this case may affect or even foreclose his eligibility to remain in this country. Defendant has discussed these matters

with his attorney in this case, but he expressly agrees that his decision to plead guilty is in no way conditioned upon or affected by the advice he has been given regarding any potential immigration consequences of his conviction(s).

Plea Agreement, ECF No. 16, PageID.43-44. The plea agreement also states that, “[u]nless otherwise indicated, this agreement does not bind any government agency except the United States Attorney’s Office for the Eastern District of Michigan.” *Id.* at PageID.45.

At the plea hearing, Judge Cohn again warned Singh of the immigration consequences of his plea:

The Court: And you know that this guilty plea has — well, it does have an effect, I guess — can be used if the immigration services brings a petition to cancel your citizenship?

Singh: Yes, Your Honor.

The Court: You know that?

Singh: Yes, Your Honor.

Plea Transcript, ECF No. 22, PageID.127.

Singh also avers that, before the hearing, the assistant United States attorney informed him that the government did not intend to revoke his citizenship unless he committed another crime. Nonetheless, on May 18, 2018, the government filed an action against Singh in the Eastern District of Kentucky, where he now resides. It seeks to revoke Singh’s citizenship based, in part, on the same facts that Singh admitted when he pleaded guilty in 2014 — that is, that Singh filed for asylum a second time, after first being ordered deported, and failed to disclose his previous immigration history under another identity.

It mentions the guilty plea proceeding in which Singh admitted those facts and pleaded guilty to knowingly using a fraudulently-obtained passport. However, the complaint does not cite Singh's passport fraud conviction as grounds for revoking citizenship. Instead, it pleads five causes of action for removal under 8 U.S.C. § 1451(a), all based on Singh procuring naturalization by concealing a material fact or making a willful misrepresentation. Four causes of action remain: (1) illegal procurement of naturalization by a person who was not lawfully admitted for permanent residence; (2) illegal procurement of naturalization by a person who committed unlawful acts in the five years before applying for naturalization; (3) illegal procurement of naturalization by a person who made false statements of the purpose of obtaining an immigration benefit; and (4) procurement of citizenship by concealment of a material fact or willful misrepresentation. Denaturalization Compl., ECF No. 25-1, PageID.157-83.

Because of the factual admissions Singh made in his 2014 plea agreement, as it now stands, the government likely will be able to rest largely on those statements to meet its burden of revoking Singh's citizenship. To avoid that result, Singh petitioned this Court to vacate his conviction. He asserted that both the government and his own lawyer told him that his guilty plea would not result in any immigration consequences unless other criminal charges were brought against him. He contended that the government did not live up to its end of the plea agreement and is barred by its terms from bringing the action to revoke his citizenship. He also argued that his lawyer did not deliver effective assistance of counsel. Finally, he maintained that the Court did not fully understand the nature of charges against Singh, so it could not have

admonished him properly in the plea hearing, and therefore his plea was not knowing and voluntary.

On June 19, 2022, the Court issued an opinion and order denying Singh's petition for a writ of error *coram nobis*. It reasoned that the government decided to attack Singh's citizenship based on the facts underlying his fraudulent citizenship application, not on Singh's conviction for passport fraud, and that Singh likely would have been convicted of that crime even if he had taken his chances with the jury. The Court also held that Singh's guilty plea was voluntary and fully informed, and that he did not establish that he was denied the effective assistance of counsel. Singh then moved for reconsideration of that decision, but on April 28, 2023, the Court rejected his request. *United States v. Singh*, No. 13-20551, 2023 WL 3151097 (E.D. Mich. Apr. 28, 2023). It indicated that the potentially harsh collateral estoppel effects of the plea agreement on Singh's denaturalization proceedings did not offer a legal basis for reconsideration and that the Court's previous conclusions about his claims were sound. The Sixth Circuit later affirmed. *United States v. Singh*, 95 F.4th 1028, 1031 (6th Cir. 2024), and Singh's petition for *certiorari* was denied. *See Singh v. United States*, 145 S. Ct. 167 (2024) (mem.).

On December 31, 2024, Singh filed the present motion, again seeking reconsideration. The denaturalization proceedings pending in the Eastern District of Kentucky remain stayed pending the motion's disposition. *See* Order dated Jan. 6, 2025, *United States of America v. Karnail Singh*, No. 18-85 (W.D. Ky.). The motion is fully briefed, and oral argument will not assist in its resolution. The Court will decide the motions on the papers submitted. E.D. Mich. LR 7.1(f)(2).

II.

Citing Federal Rule of Civil Procedure 59(e), Singh again asks the Court to reconsider its denial of his petition for a writ of *coram nobis*. Under that rule, the Court may grant a motion to amend or alter a judgment if there is “(1) a clear error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice.” *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005) (citing *GenCorp, Inc. v. Am. Int’l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999)). A Rule 59(e) motion is not properly used, however, “to raise new legal arguments that could have been raised before a judgment was issued,” or to re-hash old arguments. *Roger Miller Music, Inc. v. Sony/ATV Publishing, LLC*, 477 F.3d 383, 395 (6th Cir. 2007) (citing *Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998) (stating that “[a] motion under Rule 59(e) is not an opportunity to re-argue a case”)); *FDIC v. World Univ., Inc.*, 978 F.2d 10, 16 (1st Cir. 1992) (explaining that a Rule 59(e) motion “may not be used to argue a new legal theory”). Problematical here, the motion must be filed within 28 days of the entry of judgment. Fed. R. Civ. P. 59(e).

A.

Let’s start with the timing. Motions for reconsideration under Rule 59(e) “must be filed no later than 28 days” from the date of the judgment. Fed. R. Civ. P. 59(e). By the time Singh filed his motion in December of 2024, more than *two years* had passed from the date that the Court entered judgment on Singh’s petition. See ECF No. 35. And the Rules of Civil Procedure explicitly forbid the Court from extending the deadline for filing motions under Rule 59(e). See Fed. R. Civ. P. 6(b)(2).

Singh does not cite Rule 60(b), which provides litigants another avenue to seek relief from a prior judgment and has slightly looser time requirements, but there is little reason to think that his request would fare better under that Rule. The only ground that arguably applies to the grounds cited in his motion is subsection (b)(6)’s catch-all permitting the Court to relieve a party from a judgment for “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(6). However, “[i]t is well established that a change in decisional law is usually not, by itself, an ‘extraordinary circumstance’ meriting Rule 60(b)(6) relief.” *Blue Diamond Coal Co. v. Trs. of UMW Combined Ben. Fund*, 249 F.3d 519, 524 (6th Cir. 2001). “Rule 60(b)(6) cannot be used to make every new rule of law fully retroactive and create a situation where no litigation can ever be final.” *Wogoman v. Abramajtys*, 243 F. App’x 885, 890 (6th Cir. 2007). Instead, “the decision to grant Rule 60(b)(6) relief is a case-by-case inquiry that requires the trial court to intensively balance numerous factors, including the competing policies of the finality of judgments and the ‘incessant command of the court’s conscience that justice be done in light of all the facts.”’ *Blue Diamond*, 249 F.3d at 529 (quoting *Griffin v. Swim-Tech Corp.*, 722 F.2d 677, 680 (11th Cir. 1984)).

Singh bases his argument on a pronouncement in *Farhane v. United States*, 121 F.4th 353 (2d Cir. 2024) (*en banc*), that outlines the duties of defense counsel to inform defendants — noncitizens and citizens alike — of all possible immigration consequences that might flow from a guilty plea, including the possibility of denaturalization. But *Farhane*, as an out-of-circuit decision, is not binding on this Court, and it is not clear that the case represents a change in Sixth Amendment standards inasmuch as it is a

simple application of *Padilla v. Kentucky*, 559 U.S. 356 (2010), Supreme Court precedent that the Court cited in its decision denying Singh’s initial petition. It is not an “extraordinary circumstance” justifying relief from judgment under Rule 60(b)(6).

B.

Even if Singh could overcome these procedural hurdles, *Farhane* would not change the decision in this case. The facts of that case bear some resemblance to Singh’s situation. Relevant here, Farhane — a naturalized U.S. citizen — told immigration officials during his naturalization process that he had never committed any crimes for which he had not been arrested. *Farhane*, 121 F.4th at 359. That representation was false according to the government, which later charged him with several terrorism-related crimes based on his efforts to transfer funds to certain organizations in Afghanistan and Chechnya. *Id.* at 360. On the advice of counsel, Farhane entered a guilty plea and admitted that he had committed the crimes before he had naturalized. He ultimately spent eleven years in prison. *Id.* at 360-61. On his release, the government instituted denaturalization proceedings, asserting that his guilty plea established conclusively that he had knowingly committed crimes before he was naturalized and that the crimes established that he was not a “person of good moral character” when he naturalized. *Id.* at 361.

In response, Farhane filed a motion under 28 U.S.C. § 2255 to set aside his plea and conviction. He asserted that he received ineffective assistance of counsel because his attorney failed to explain that his plea came with a risk of denaturalization and deportation. *Ibid.* The district court denied his motion on the ground that his conviction

did not create an imminent risk of deportation, so the Supreme Court's holding in *Padilla*, that constitutionally adequate representation requires counsel to advise their clients of potential immigration consequences of their conviction, had no bearing on the case. *Id.* at 362. A divided Second Circuit panel affirmed.

The *en banc* court reversed. It first concluded that “under *Padilla*, a naturalized U.S. citizen has a Sixth Amendment right to be advised by counsel that he may be denaturalized and deported as a result of his entry of a guilty plea.” *Id.* at 363. This result is “a straightforward application” of *Padilla*'s holding or “a necessary result” of its reasoning, the court explained, because a guilty plea that exposes a defendant to a risk of denaturalization necessarily exposes him to potential deportation. *Ibid.* (citations omitted). And although for naturalized citizens, “the risk of deportation is one step further removed from entry of a guilty plea than it is for a noncitizen,” the court held that *Padilla* speaks in broad terms and “requires counsel to advise her client regarding the deportation consequences of his plea, whether or not those consequences are clear or certain.” *Id.* at 366. The court also rejected the government's suggestion that *Padilla* applies only to non-citizens. *Id.* at 370-71. It remanded the case to the district court for a determination whether prevailing professional norms at the time the defendant was convicted required his counsel to advise naturalized citizen clients of the risk of denaturalization and deportation and whether the defendant was prejudiced under *Strickland*'s second element. *Id.* at 375-76.

Farhane does not lead to a different result in this case. To the extent that the *en banc* opinion is instructive, it is for its holding about what constitutes deficient

performance by defense counsel advising naturalized citizens. But this Court’s prior opinion already embraced *Farhane*’s conclusion when it observed that Singh’s attorney “[p]robably” should warned him that denaturalization could have resulted from his plea agreement and that “‘prevailing professional norms’ after *Padilla* was decided suggest that counsel should have imparted that advice.” *Singh*, 2022 WL 2209369, at *6. Singh does not explain how *Farhane* further assists him.

Moreover, an ineffective assistance claim requires a defendant show both that his attorney’s performance was deficient, *and* that deficiency prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *Farhane* offers no new insights on the prejudice component, *see* 121 F.4th at 376, and this Court and the Sixth Circuit resolved that question against him. Singh offers little explanation for why the Court should revisit that aspect of its conclusion.

To show prejudice, a defendant must establish “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Padilla*, 559 U.S. at 366 (quoting *Strickland*, 466 U.S. at 694). In the plea context, “we do not ask whether, had he gone to trial, the result of that trial would have been different than the result of the plea bargain.” *Lee v. United States*, 582 U.S. 357, 364 (2017) (internal quotation marks omitted). Instead, we consider whether the defendant has demonstrated a “reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 364-65 (quoting *Hill v. Lockhart*, 474 U.S. 52, 59); *see also Kovacs v. United States*, 744 F.3d 44, 52 (2d. Cir 2014) (concluding that prejudice also exists if the defendant can show that “there was a reasonable

probability that [he] could have negotiated a plea that did not impact [his] immigration status”).

In its initial opinion on Singh’s petition, the Court emphasized that the government’s criminal case against Singh for passport fraud was strong, particularly in light of the numerous and glaring inconsistencies in his answers on his immigration forms. The Court also found that Singh’s explanations for the inconsistencies “challenge[] logic, and . . . would not have helped [his] credibility at a trial.” *Singh*, 2022 WL 2209369, at *8. For those reasons, there was “no indication of a ‘likelihood of a favorable outcome at trial.’” *Ibid.* (quoting *Dando v. Yukins*, 461 F.3d 791, 802 (6th Cir. 2006)).

The Court acknowledged that the prejudice inquiry is slightly more complex for defendants who might face immigration consequences as a result of their plea and recognized that some defendants may seek a “Hail Mary” by proceeding to trial when the consequences of a conviction by trial and plea are similarly dire. *Ibid.* (citing *Lee*, 582 U.S. at 368). But it explained that Singh had not established that he would have elected to proceed to trial because the government’s complaint in the denaturalization proceedings “although mentioning the guilty plea to passport fraud, does not style its case on the premise of [the] conviction. Instead, it alleges the underlying conduct as the basis for its effort to revoke citizenship, which it could rely upon even if Singh’s guilty-plea-based conviction were set aside, and even if no criminal charges were brought in the first instance.” *Id.* at *9.

Of course, this logic is in slight tension with *Farhane*’s reasoning that defense counsel’s *Padilla* obligations are triggered when a guilty plea makes it “substantially easier

for the government to obtain” a defendant’s denaturalization. 121 F.4th at 373. As the Court recognized, “Singh’s admissions at the plea hearing certainly make the government’s denaturalization case easier” *Singh*, 2022 WL 2209369, at *6; *see also Singh*, 2023 WL 3151097, at *3 (“The parties agree that, by virtue of the plea agreement he entered in this case, Singh likely will be precluded from arguing during his denaturalization proceedings that he acted out of mere confusion when he concealed the fact of his first asylum application and deportation order in applying for permanent residence status.”).

In any event, the Court’s opinion denying Singh’s first motion for reconsideration provided a further explanation why he had not satisfied *Strickland*’s prejudice component: he failed to “present evidence contemporaneous to his guilty plea to substantiate that he would have preferred then to proceed to trial.” *Singh*, 2023 WL 3151097, at *4. On appeal, the Sixth Circuit built on this point, observing that Singh offered little more than “post hoc assertions that he would’ve opted for trial.” *Singh*, 95 F.4th at 1034. In fact, the court of appeals explained, the evidence contemporaneous to Singh’s plea cut against him because “his decision to plead guilty was in ‘no way conditioned upon or affected by the advice he has been given regarding any potential immigration consequences,’” “his decision to plead was ‘wholly independent of the immigration consequences of a conviction,’” and he expressed no reservations in response to Judge Cohn’s explicit warning that the plea could affect his citizenship. *Ibid.* (quoting Plea Agreement, ECF No. 16, PageID.43-44). Courts are “generally wary” of upsetting a plea agreement based on a defendant’s post

hoc assertions that contradict statements he made on the record during a plea hearing. *United States v. Brown*, No. 22-3671, 2023 WL 4564766, at *3 (6th Cir. July 17, 2023) (quoting *Boyd v. Yukins*, 99 F. App'x 699, 703 (6th Cir. 2004)). Some have gone so far as to hold that a proper plea colloquy “cure[s] any misunderstanding [a] defendant may have had about the consequences of the plea,” and that a district court’s “proper advisement of rights is thus deemed to ‘foreclose’ any showing of actual prejudice attributed to counsel’s erroneous advice.” *United States v. Pola*, 703 F. App'x 414, 423 (6th Cir. 2017) (citing *Ewing v. United States*, 651 F. App'x 405, 410 (6th Cir. 2016)).

Singh, once again, asks for the Court to hold a hearing to expand the evidentiary record. But his present motion offers no new facts that would cause one to question the Court’s previous conclusion, affirmed by the court of appeals, that no hearing was necessary because the record makes clear that his ineffective assistance claim lacks merit.

III.

Singh has not established that either the Court’s order denying his petition for writ of error *coram nobis* or that the order denying the first motion for reconsideration were predicated upon any manifest errors of law or fact, or that correcting the order would prevent any manifest injustice. There are no grounds under Federal Rule of Civil Procedure 59(e) for amending or altering the Court’s order.

Accordingly, it is **ORDERED** that the defendant’s second motion to alter or amend the order and judgment denying petition for writ of *coram nobis* (ECF No. 53) is **DENIED**.

31a

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: May 7, 2025