

CONFERENCE ON IMMIGRATION AND NATIONALITY LAW

# Texas Crimmigration

 The University of Texas at Austin  
School of Law

UT LAW CLE

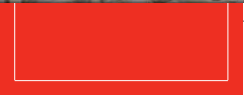


**Nicolas Chavez**  
Chavez & Valko, LLP  
Fort Worth, TX



**Amelia Ruiz Fischer**  
Fischer & Fischer  
Attorneys at Law  
Nacogdoches, TX

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“[A]s a matter of federal law, deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.”

*PADILLA V. KENTUCKY, 559 U.S. 356, 364 (2010).*

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# Our Duties in “Crimmigration” Matters

- Collaborate with defense counsel
- Understand State and Federal Laws
- Offer guidance
- Advocate for client's future
  - Bond, relief, benefits, natz, etc



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## What Immigration Lawyers Look For...

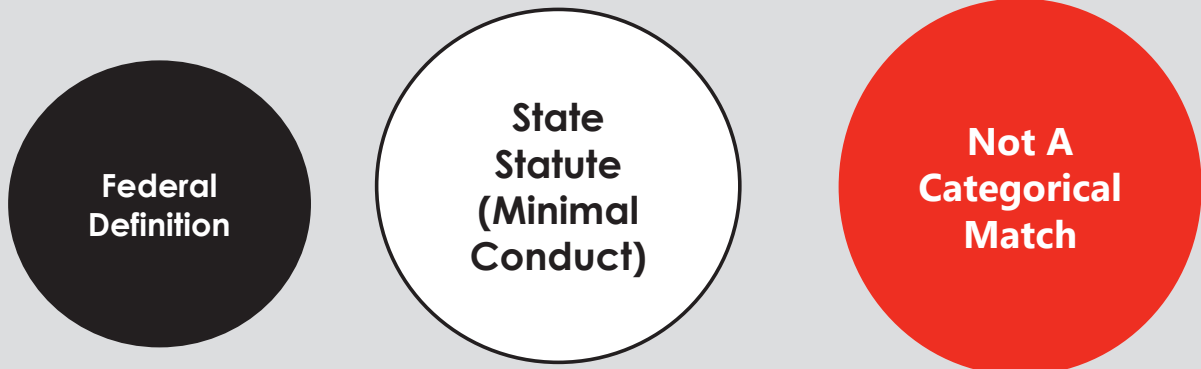
**Type of Crime?**  
**Immigration Status?**  
**Winnable Case?**  
**Plea Offers?**  
**History?**



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# Categorical Approach

- **Step 1.** Identify the federal deportation offense. Federal statute or generic definition
- **Step 2.** Identify minimum conduct as proscribed by the state statute
- **Step 3.** Compare statute elements with federal definition



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## Step 4? Realistic Probability Test

- *Gonzales v. Duenas-Alvares*, 549 U.S. 183 (2007) – requiring a “realistic probability” – not theoretical possibility – that a certain state statute falls outside the federal generic definition.
- If the minimum conduct is clearly not a categorical match, the inquiry should end.
- BUT not so in the Fifth Circuit (as it relates to agfels and controlled substances)
- CA5 requires a showing of an actual case that has been prosecuted for conduct outside the federal definition.
- But how do you meet the “actual case” requirement with the CA5??? (not settled yet)

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## Title search: Texas Crimmigration

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