

**19-438 PEREIDA V. WILKINSON, ACTING ATTORNEY GENERAL**

DECISION BELOW: 916 F.3d 1128

LOWER COURT CASE NUMBER: 17-3377

QUESTION PRESENTED:

A noncitizen may not apply for relief from deportation, including asylum and cancellation of removal, if he has been convicted of a disqualifying offense listed in the Immigration and Nationality Act. The categorical approach (including its "modified" variant) governs the analysis of potentially disqualifying convictions. Under that approach, a conviction for a state offense does not carry immigration consequences unless it "necessarily" establishes all elements of the potentially corresponding federal offense. *Moncrieffe v. Holder*, 569 U.S. 184, 190-91 (2013).

Accordingly, four courts of appeals hold that a state conviction does not bar relief from removal if the state-court record is merely ambiguous as to whether the conviction involved the elements of the corresponding federal offense. In their view, ambiguity means the conviction does not "necessarily" establish the elements of the federal offense. Four other courts of appeals—including the Eighth Circuit below—take the opposite view. They hold that a merely ambiguous conviction is nonetheless disqualifying because the immigration laws place an evidentiary burden of proof on noncitizens to establish eligibility for relief.

The question presented is:

Whether a criminal conviction bars a noncitizen from applying for relief from removal when the record of conviction is merely ambiguous as to whether it corresponds to an offense listed in the Immigration and Nationality Act.

PRESS RELEASE OF MARCH 16, 2020

IN KEEPING WITH PUBLIC HEALTH PRECAUTIONS RECOMMENDED IN RESPONSE TO COVID-19, THE SUPREME COURT IS POSTPONING THE ORAL ARGUMENTS CURRENTLY SCHEDULED FOR THE MARCH SESSION.

4/13/2020: ARGUMENT TO BE RESCHEDULED FOR THE OCTOBER TERM 2020

CERT. GRANTED 12/18/2019