N-400 Naturalization Application and 2021 Conviction Exposure

Prepared for counsel

CODOSSIER
November 5, 2026
REF LT-20261105-0107AA

FORUM **US Naturalization Law (USCIS adjudication of Form N-400)**
Value of merchandise taken $180
Fine imposed $300
Probation term 12 months summary probation
Maximum possible sentence for PC 484(a) misdemeanor 6 months
Jail sentence imposed or suspended None (0 months)
Number of arrests or offenses ever 1
Time as LPR as Of Date 10 years 8 months — *LPR since March 2016; AS OF 2026-11-05*

Interval from LPR grant to offense 5 years 3 months — *LPR date March 2016; offense date June 2021*
Maria Santos becomes lawful permanent resident through marriage to a US citizen 2016-03
Petty theft of about $180 of merchandise from a department store 2021-06
Conviction under Penal Code 484(a) on no contest plea; $300 fine, 12 months summary probation 2021
Summary probation completed 2022
Divorce from US citizen spouse 2023
Client's considered waiting point pass June 2026, stated in t16 as passed 2026-06

This matter resolves whether the client's 2021 petty theft conviction becomes a ground for denial of the N-400 naturalization application or for removal proceedings, and whether the N-400 is approved and the oath taken.

WHAT WAS ASKED — WHAT THIS PLAN ANSWERS

I wanted to know if waiting past June 2026 helps.
An applicant under the five-year rule must show good moral character during the five years immediately preceding the filing of the N-400 and continuing until the oath (INA § 316(a)(3), 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1)). For an N-400 filed after June 2026, the June 2021 offense precedes the period, and further waiting adds no statutory benefit. Conduct from filing through the oath remains inside the period.

PRESCRIPTIONS — WHAT TO DO, IN ORDER

01 **Prescriptions withheld.** This run proposed no prescription that survived review. Act on the bottom line.

DATES & POSITIONS

None of these periods rests on a signed rule in this knowledge base — confirm each before relying on it.

POSITION	LAST DAY	ACT BY	BASIS
Five-year naturalization eligibility	–	–	
Cmc offense outside statutory period	–	–	
Petty offense exception	–	–	
No deportability ground for single CIMT	–	–	
Truthful disclosure and sworn testimony	–	–	

BUCKET 1 OF 2

Good moral character, disclosure, and interview readiness

NO BAR — weighing and sworn consistency decide

Goal served: an approved N-400 and oath. Posture: the client is a Philippine citizen and LPR since March 2016, obtained through marriage to a U.S. citizen.

Related — Bucket 1 (Good moral character, disclosure, and interview readiness): the client's question 033 (a defensible position) is carried there.

PROPOSITION 1.1 Outside-period conduct still weighed on character

The June 2021 theft happened before the five-year window that counts for filing now, so it is not an automatic bar. The officer can still weigh it as a sign of your client's character today. Waiting longer adds no legal benefit.

HOW TO WIN

- Under INA § 316(e), 8 U.S.C. § 1427(e) and 8 C.F.R. § 316.10(a)(2), USCIS may consider conduct before the statutory period where it is relevant to present moral character. [1]
- Willful failure or refusal to pay taxes owed, or willful failure to file required returns, during the statutory period can support a finding that the applicant lacks good moral character. [2]
- The rule that the N-400 requires tax-related evidence only on request, and the specific form of a declaration (a signed statement from the applicant or a third party), is not fixed by statute or regulation. [3]
- Prepare a written list of likely interview questions with answers.

BLIND SPOTS

- The § 101(f)(3) bar turns on when the offense was committed, not on the plea date, so the June 2021 offense is outside the statutory period for an N-400 filed after June 2026 (INA § 101(f)(3), 8 U.S.C. § 1101(f)(3)). [4]
- An applicant under the five-year rule must show good moral character during the five years immediately preceding the filing of the N-400 and continuing until the oath (INA § 316(a)(3), 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1)). [4]
- At the interview the officer alone decides whether to ask about the June 2021 theft.
- Answers that match the form word for word may still fail if the officer asks about the June 2021 theft in different words or out of order.

PROPOSITION 1.2 Form requires disclosing all arrests and convictions

The N-400 asks about every arrest, citation, charge and conviction at any time, even dismissed or sealed ones, not just the last five years.

HOW TO WIN

- Sworn answers become fixed once the officer writes them on the interview worksheet and moves on to a decision without asking more.
- Form N-400 asks about arrests, citations, charges, and convictions at any time, including expunged, sealed, or dismissed matters. [5]
- A person who makes a false claim to U.S. citizenship, or who willfully misrepresents a material fact to obtain an immigration benefit, may be inadmissible or removable. [6]
- A person who gave false testimony to obtain an immigration benefit during the statutory period lacks good moral character (INA § 101(f)(6), 8 U.S.C. § 1101(f)(6); 8 C.F.R. § 316.10(b)(2)(vi)). [6]
- Because the statutory period continues until the oath, every oral answer under oath at the interview about the June 2021 arrest and conviction falls within the false-testimony bar of INA § 101(f)(6). [6]

BLIND SPOTS

- Designated USCIS officers conduct the naturalization examination under oath, and the applicant bears the burden of establishing eligibility, with doubts resolved against the applicant (INA § 335(b), 8 U.S.C. § 1446(b)). [7]
- A mock interview that only walks through the scripted questions can look complete, but the officer may break the order and reward the offense question on the spot.
- The § 101(f)(6) bar requires no materiality, so a false oral answer under oath on even a minor point about the June 2021 offense, given with intent to obtain naturalization, bars good moral character (Kungys v. United States, 485 U.S. 759 (1988)). [8]
- Written omissions on the N-400 fall outside the oral-testimony bar of INA § 101(f)(6), but they are not only discretionary negatives. [8]
- The interview mixes the civics and English tests with open sworn questions about the offense and the record since 2022, all under one oath.

PROPOSITION 1.3 Whole-record discretionary weighing favors applicant's burden

With no automatic bar applying, the officer weighs the whole record and the burden stays on your client, with doubts resolved against them, so a bare conviction without context is risky.

HOW TO WIN

- Background checks often catch gaps first, such as a criminal history hit or an alias the form does not mention, before the interview.
- Before filing, check every fact in the application against a document that proves it. Line up the documents in the same order as the form's questions.
- The last sentence of INA § 101(f) says that a person who is not within the enumerated categories may still be found to lack good moral character. [4]
- In weighing a conviction that is not a bar, the officer considers evidence of rehabilitation and mitigating factors alongside the negative conduct. [9]
- The declaration on the record since 2022 is evidence offered to carry the applicant's preponderance burden on good moral character, and it is weighed case by case against the June 2021 conviction (8 C.F.R. § 316.2(b); 8 C.F.R. § 316.10(a)(2)). [9]

BLIND SPOTS

- The applicant bears the burden on good moral character, and doubts are resolved against the applicant (8 C.F.R. § 316.2(b); Berenyi v. INS, 385 U.S. 630 (1967)). [9]
- Fingerprint results may arrive before the interview.
- The tax records in the packet are a snapshot.
- If the certified court papers describe the June 2021 theft differently from what your client reported, that mismatch goes into the packet as is. Compare the two before filing, and resolve the difference with your client first.
- Under INA § 316(e), 8 U.S.C. § 1427(e) and 8 C.F.R. § 316.10(a)(2), USCIS may consider the June 2021 theft, though committed before the statutory period, as relevant to present character. [1]

BUCKET 2 OF 2

Conviction classification, exception, and removal exposure

CONVICTION COUNTS — exception zoute, removal separate

The one June 2021 petty theft conviction ($180, $300 fine, 12 months summary probation, no jail) is a conviction for immigration purposes. The petty offense exception is the route that keeps it from barring the N-400, and the removal analysis is a separate track.

Related — Bucket 2 (Conviction classification, exception, and removal exposure): the denial-side risk (good moral character weighing of the conviction) and the disclosure plan are carried there.

Related — Bucket 2 (Conviction classification, exception, and removal exposure): the client's question 115 about waiting past June 2026 is carried there.

PROPOSITION 2.1 No-contest plea remains a conviction despite probation

CONVICTION STANDS — document it fully

The no contest plea with the $300 fine and 12 months summary probation is a conviction for immigration purposes. Probation completed in 2022 does not change that, and the full court file is what proves the sentence.

HOW TO WIN

- Request the whole 2021 court file: the complaint, the plea hearing record, the sentencing order or judgment, the probation completion order and proof the $300 fine was paid. A plea form alone omits the punishment.
- The exception turns on the misdemeanor penalty and the sentence imposed. The complaint must show a misdemeanor petty theft count under Penal Code 484(a), and the certified judgment must show no jail ordered, suspended or otherwise. [2]

BLIND SPOTS

- The no contest plea together with the $300 fine and 12 months summary probation is a conviction. The certified disposition records both the plea and the punishment. [1]
- A conviction vacated for rehabilitation or hardship still counts for immigration purposes, so finishing probation in 2022 or any later dismissal does not erase it. Does the certified disposition or the client show whether any post-judgment relief was sought or granted? The answer changes how the disposition is presented, not the conviction's status. [3]
- Theft offenses are treated as moral-turpitude crimes where permanent deprivation is intended. That is why the plan assumes this offense qualifies and does not run a categorical-approach challenge. Counsel still needs to confirm current authority on the classification. [4]

PROPOSITION 2.2 Petty-offense exception applies under sentence limits

EXCEPTION FITS — if the record bears it out

The petty offense exception appears to fit: one offense, a maximum penalty of no more than one year, and a sentence imposed of 0 months in jail, with only a $300 fine and 12 months summary probation.

HOW TO WIN

- Verify whether the petty offense exception carries into the good moral character regulation's CIMT bar; counsel should confirm current authority.
- The sentence measured includes any confinement ordered, even if suspended. The disposition reportedly shows no jail, but confirm against the full court file. [5]

BLIND SPOTS

- The exception needs three things: this is the only moral-turpitude offense, the maximum possible penalty does not exceed one year, and the sentence imposed is six months or less. The test is a one-year maximum, not six months. The 6-month maximum for this offense is within it, and the client's one arrest ever satisfies the single-offense element. [6]
- The one certified judgment is read twice, once for the exception at filing and again for the officer's weighing at interview. Any unclear sentence or count entry will carry into both readings, so check the certified disposition line by line before filing.

PROPOSITION 2.3 Pending removal proceedings halt naturalization review

Naturalization review stops only when removal proceedings are actually pending, meaning a charging notice or arrest warrant has been issued.

HOW TO WIN

- Under INA § 318, 8 U.S.C. § 1429, the bar on N-400 consideration attaches when a removal proceeding is pending against the applicant under a Notice to Appear or a warrant of arrest. [7]
- If a Notice to Appear is filed, the N-400 cannot be considered while removal proceedings are pending, so the stated ground is answered in the removal case rather than alongside a naturalization adjudication.
- At the interview, the client answers questions on dates and sequence from the certified disposition record, not the record of permanent residence (since March 2016). [8]
- If the government tries to build a removal case only on what the client said at the naturalization interview, it must prove that answer with strong evidence.
- Under INA § 237(a)(2)(A)(i), 8 U.S.C. § 1227(a)(2)(A)(i), a single CIMT only supports deportability only if two conditions are met: it was committed within five years after the date of admission, and a sentence of one year or longer may be imposed. [9]

** rests on law no one has signed in this knowledge base — confirm the authority before relying on it.*

OPEN QUESTIONS — WHAT DECIDES THIS MATTER AND WHO CAN ANSWER IT

WHAT DECIDES THIS MATTER

- Are there other omitted facts that would create inconsistency or a bar trigger? *— blocks part of this analysis*
- Does the statute of conviction actually carry a maximum of one year or less? *— blocks part of this analysis*
- Will the adjudicator find the theft directly probative of present character? *— blocks part of this analysis*
- Will the adjudicator document that the rehabilitation evidence was weighed? *— blocks part of this analysis*
- How will the officer weigh the conduct in the written decision? *— blocks part of this analysis*
- Has any vacatur or expungement occurred, and on what grounds? *— blocks part of this analysis*
- Does the conviction match any §237 deportability ground? *— blocks part of this analysis*

QUESTIONS ONLY THE CLIENT CAN ANSWER

- Whether post-judgment relief (e.g., PC 1203.4 dismissal) was sought or granted? The record does not supply it; likely source: Certified court disposition and client; affects how the disposition is presented, not the conviction status for immigration purposes. *— blocks part of this analysis*
- What is IHS tax transcripts covering the statutory period? The record does not supply it; likely source: IHS transcript request by client or counsel (planned, not yet obtained); record establishes only that the client states taxes were filed each year. *— blocks part of this analysis*
- What is Client's conduct and character since 2022 beyond absence of arrests (employment, family support, community ties)? The record does not supply it; likely source: Client's declaration (planned); needed for the holistic good moral character review. *— blocks part of this analysis*
- What is Certified probation completion order? The record does not supply it; likely source: California superior court clerk (requested, not yet received); confirms completion date beyond the year 2022. *— blocks part of this analysis*
- What is English-language ability and civics knowledge for the naturalization test? The record does not supply it; likely source: Client interview by counsel; not addressed in the record. *— blocks part of this analysis*

QUESTIONS OF LAW

- What is Current authority confirming PC 484(a) petty theft as a CIMT and the petty offense exception's application to this record? The record does not supply it; likely source: Counsel's check of current Ninth Circuit and BIA authority (the conversation itself recommends this check and does not record it). *— blocks part of this analysis*

RAISED AT INTAKE, NOT PLACED IN THIS ANALYSIS

- Residual removal referral risk (under Conviction classification, exception, and removal exposure)
- Interview preparation on the conviction (under Good moral character, disclosure, and interview readiness)
- Filing packet and post-2022 record (under Good moral character, disclosure, and interview readiness)