



Removal Defense

Online Course

American Immigration Lawyers Association

Module 4: Criminal Removability with the Categorical and Modified Categorical Approach

Hypotheticals

Faculty Response

Hypothetical A

Milhouse thought that he was born in the United States but was actually a native and citizen of Italy. His maternal grandmother is Italian. You see, his mom, Luann gave birth to him while visiting family in Italy and then brought him to the U.S. as an infant. He is in fourth grade and ten years old. When not in school, he likes to hang out with his best friend, Bart. Bart, however, is quite a troublemaker who loves to spray paint “El Barto” all over Springfield.

Acting out after his parents were lost at sea, Milhouse helped Bart steal all of the Kwik-E-Mart’s money and spray paint when the shopkeeper was not looking. They went through their town spray painting images of their principal saying “I am a wiener.” Milhouse got caught red-handed (the spray paint was red) and convicted of theft and vandalism.

Is this a conviction for immigration purposes?

Faculty Response

No. This is an adjudication in juvenile delinquency proceedings and is not a conviction for any immigration purpose, regardless of the nature of the offense.

Hypothetical B

Milhouse is now 18 years old. He is now super buff and muscular, which may or may not be because of steroids. He finally gets a date with Lisa, the younger sister of his best friend, Bart. Not long after they begin dating, Lisa realizes she’s dating Milhouse, which she vowed never to do when she was younger. So, she breaks up with him. Milhouse goes on a rampage, which may or may not be due to the side effects from steroids he may or may not have been using.



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During his rampage, he goes back to the Kwik-E-Mart, uses a fraudulent document saying he is 27 years old, and buys all the Duff beer in the shop. He leaves the store and is immediately picked up by the police. Milhouse pleads to a misdemeanor fraud offense, which has a maximum possible sentence of one year. This is Milhouse's first offense with a sentence of imprisonment of three months.

Is Milhouse removable for this conviction?

Faculty Response

No. Millhouse is not deportable because he committed his crime involving moral turpitude more than five years after his admission to the United States (8 USC § 1227(a)(2)(A)(i)). Also, Millhouse is not inadmissible because conviction falls under the petty offense exception because Milhouse only committed this one crime involving moral turpitude (ever), was not sentenced to a term of imprisonment of more than six months and the offense has a maximum possible sentence of one year.