

Strategies on Preparing Naturalization Application

Patricia M. Corrales

Law Office of Patricia M. Corrales

Silvia Martinez

*Directing Attorney – LACBA Immigration Legal Assistance
Project*



Application for Naturalization Screening Process

Addressing Questions that implicate
Legal Issues

Are all Questions on the N400 Material and Relevant

- ◆ Part 2- Information About You-
 - ◆ Providing different names material to GMC
 - ◆ See, *United States v Estrada* (2018)
- ◆ Part 5-Addresses
 - ◆ Relevant to GMC and Eligibility
 - ◆ Misrepresentation at issue must have actually impacted an applicant's eligibility to procure citizenship
 - ◆ See, *Hussein v. Barrett* (9th Cir. 2016)
- ◆ Part 8-Criminal History Questions
 - ◆ Discussions of good moral character and its broad reach, especially as criminal law and immigration law have converged, are notably lacking
 - ◆ Permanent Bars (Murder, Agg. Felonies, Persecution, Terrorist Acts, Torture and Genocide (Codified in 1952)-8 C.F.R. §316.10(a)
 - ◆ Post-Conviction Relief and Impact

Strategies in Answering Criminal related Questions when there has been PCR

- ◆ **Question 23-regarding arrests, detentions, citations**
 - ◆ Even if there is a legally valid vacatur, need to answer this question in the positive as arrest is not “vacated” only conviction. Unless a Court orders arrest sealed. For this to happen need to file motion to seal, CPC 851.8. Difficult but not impossible
 - ◆ **Question 24-Have you ever been charged?**
 - ◆ Must answer in the positive even if conviction has been vacated pursuant to CPC 1473.7 or 1018 or 1016.5
 - ◆ **Question 25-Have you ever been convicted?**
 - ◆ Answer “NO” if obtained PCR that meets *Pickering* standard.
 - ◆ **DO NOT ALLOW QUESTIONING OF ANY ACTS OR CONDUCT ASSOCIATED WITH THE CONVICTION THAT WAS LEGALLY VACATED!!**

Strategies in Answering Criminal related Questions when there has been PCR

- ◆ It is my position that if a conviction has been vacated based on substantive and legal errors, an attorney should not permit any questioning concerning the conduct involved in regard to the conviction that was vacated.
- ◆ In my opinion, here is where most mistakes happen: Remember the standard of Good Moral Character is not limited to an individual's criminal record but whether the individual possesses "character which measures up to the standards of average citizens *of the community in which the applicant resides*. See, USCIS Policy Manual, *supra* note 16, at pt. F, ch. 1.
- ◆ As such, I include evidence of reformation of character.