United States Court of Appeals
For the Second Circuit

August Term 2024

Argued: May 8, 2025
Decided: August 19, 2026

No. 22-6185

KWOK SUM WONG,

Petitioner,

v.

TODD BLANCHE, United States Attorney General,

Respondent.[*]

On Petition for Review of a Final Decision
Of the Board of Immigration Appeals

Before: WALKER, RAGGI, SULLIVAN, *Circuit Judges*.

Kwok Sum Wong, a native of Hong Kong and citizen of China, petitions for review of a decision of the Board of Immigration Appeals ("BIA") affirming his removal under section 237 of the Immigration and Nationality Act ("INA")

[*] The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

because he was "convicted" of "two . . . crimes involving moral turpitude." 8 U.S.C. § 1227(a)(2)(A)(ii). One of the predicate offenses was theft by deception in violation of N.J. Stat. Ann. § 2C:20-4, a disorderly persons offense under New Jersey law. Citing then-controlling precedent, *see Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984), we denied Wong's petition for review after deferring to the BIA's interpretation of the term "conviction" under 8 U.S.C. § 1101(a)(48)(A). *Wong v. Garland*, 95 F.4th 82, 97–98 (2d Cir. 2024). The Supreme Court subsequently vacated our judgment and remanded for further consideration in light of its decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). *See Wong v. Garland,* 145 S. Ct. 432 (2024).

On remand, we address only one issue: was Petitioner, with respect to his guilty plea to theft by deception in violation of N.J. Stat. Ann. § 2C:20-4, convicted within the meaning of 8 U.S.C. § 1101(a)(48)(A)? We conclude that he was. Adhering to *Loper Bright*'s requirement that federal courts independently determine the "best reading" of a statute, 603 U.S. at 400, we hold that, as relevant here, the term "conviction" in section 1101(a)(48)(A) refers to a "formal judgment of guilt" that (i) was reached at a criminal proceeding in which the accused was provided the minimum constitutional protections required to impose a criminal penalty and (ii) subjected the accused to a criminal sentence. This reading of the INA follows from the text of section 1101(a)(48)(A) as well as our caselaw in this area. By pleading guilty to the disorderly persons offense in question, Wong was both provided the minimum constitutional protections required for a criminal offense and subjected to criminal punishment. We therefore conclude that Wong was "convicted" within the meaning of section 1101(a)(48)(A) and **DENY** his petition for review.

DENIED.

BENJAMIN HAYES (David J. Zimmer, Goodwin Procter LLP, Boston, MA; William M. Jay, Goodwin Procter LLP, Washington, DC; Margret W. Wong, Joseph C. Fungsang, Margaret Wong & Associates LLC, Cleveland, OH, *on the brief*), Goodwin Procter LLP, Washington, DC, *for Petitioner.*

CRAIG A. NEWELL, JR. (Brett A. Shumate, Acting Assistant Attorney General; Lindsay B. Glauner, Assistant Director, *on the brief*), Civil Division, U.S. Department of Justice, Washington, DC, *for Respondent*.

RICHARD J. SULLIVAN, *Circuit Judge*:

Kwok Sum Wong, a native of Hong Kong and citizen of China, petitions for review of a decision of the Board of Immigration Appeals ("BIA") affirming his removal under section 237 of the Immigration and Nationality Act ("INA") because he was "convicted" of "two . . . crimes involving moral turpitude." 8 U.S.C. § 1227(a)(2)(A)(ii). One of the predicate offenses was theft by deception in violation of N.J. Stat. Ann. § 2C:20-4, a disorderly persons offense under New Jersey law.

Citing then-controlling precedent, *see Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984), we denied Wong's petition for review after deferring to the BIA's interpretation of the term "conviction" under 8 U.S.C. § 1101(a)(48)(A). *Wong v. Garland*, 95 F.4th 82, 97–98 (2d Cir. 2024). The Supreme Court subsequently vacated our judgment and remanded for further consideration in light of its decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369(2024). *See Wong v. Garland*, 145 S. Ct. 432 (2024).

On remand, we address only one issue: was Petitioner, with respect to his guilty plea to theft by deception in violation of N.J. Stat. Ann. § 2C:20-4, convicted within the meaning of 8 U.S.C. § 1101(a)(48)(A)? We find that he was. Adhering to *Loper Bright*'s requirement that federal courts independently determine the "best reading" of a statute, 603 U.S. at 400, we hold that a "conviction" in section 1101(a)(48)(A) includes a "formal judgment of guilt" that (i) was reached at a criminal proceeding in which the accused was provided the minimum constitutional protections required to impose a criminal penalty and (ii) subjected the accused to a criminal sentence. This reading of the INA follows from the text of section 1101(a)(48)(A) as well as our caselaw in this area.

By pleading guilty to the disorderly persons offense in question, Wong was both provided the minimum constitutional protections required for a criminal offense and subjected to criminal punishment. We therefore conclude that Wong was "convicted" within the meaning of section 1101(a)(48)(A). Accordingly, we DENY Wong's petition for review.

I. BACKGROUND

In 1979, Wong was admitted to the United States as a lawful permanent resident. Nine years later, Wong pleaded guilty in the United States District Court for the Eastern District of New York to the crime of conspiracy to import heroin, in violation of 21 U.S.C. § 963, for which he was sentenced to a term of imprisonment of one year and one day. Although that conviction subjected Wong to mandatory deportation, an Immigration Judge ("IJ") granted a waiver of deportation under former section 212(c) of the INA, 8 U.S.C. § 1182(c) (1994) (repealed 1996).

Following that waiver, Wong committed two additional offenses under state law. *First*, in 2005, he pleaded guilty in New Jersey Superior Court to the disorderly persons offense of theft by deception, in violation of N.J. Stat. Ann. § 2C:20-4, which is punishable by up to six months' imprisonment and a $1,000 fine, *id.* §§ 2C:43-3c 8, 2C:43-8. Following his plea, a New Jersey state judge ordered Wong to pay a $200 fine. *Second*, in 2006, Wong pleaded guilty in New York Supreme Court to forgery in the second degree, in violation of N.Y. Penal Law § 170.10, which is punishable by up to seven years' imprisonment and a fine of up to $5,000. For this offense, he was sentenced to five years' probation and ordered to pay a $1,000 fine.

On September 28, 2011, the Department of Homeland Security ("DHS") initiated removal proceedings against Wong. Based on his two state convictions –

that is, his New Jersey conviction for theft by deception and his New York conviction for second-degree forgery – DHS asserted that Wong was removable for having been "convicted of two . . . crimes involving moral turpitude [("CIMTs")]" that did "not aris[e] out of a single scheme of criminal misconduct." 8 U.S.C. § 1227(a)(2)(A)(ii). Wong thereafter moved to terminate his removal proceedings, arguing that his New Jersey disposition was not a "conviction" under 8 U.S.C. § 1101(a)(48)(A), and that neither state offense involved moral turpitude.

The IJ denied Wong's motion to terminate and ordered his removal. Wong subsequently appealed to the BIA, which, like the IJ, determined that (i) the New Jersey offense *did* result in a "conviction" under 8 U.S.C. § 1101(a)(48)(A), and (ii) both of his state offenses involved moral turpitude. Accordingly, the BIA dismissed his appeal.

Wong petitioned this Court for review of the BIA's decision. Upon the parties' stipulation, we remanded the case to the BIA for further consideration of whether New York's second-degree forgery offense qualified categorically as a CIMT. The BIA then remanded the proceedings to the IJ, who answered that question in the affirmative. Wong subsequently appealed that decision to the BIA, which, on March 20, 2018, dismissed the appeal for the same reasons set forth in its first decision. *See generally In re Kwok Sum Wong*, A036 850 251 (B.I.A. Mar. 20, 2018). Wong again timely petitioned this Court for review.

We granted Wong's petition for review and remanded for the BIA to determine: (1) what is the best interpretation of "conviction" under section 1101(a)(48)(A); (2) whether Wong's New Jersey offense involved a "criminal proceeding," as required by *In re Eslamizar*, 23 I. & N. Dec. 684 (B.I.A. 2004); and (3) whether Wong's New Jersey offense could qualify as a CIMT if it was not a "crime" under New Jersey law. *See Kwok Sum Wong v. Barr*, 818 F. App'x 44, 46–47 (2d Cir. 2020). On remand, the BIA issued a precedential decision, dismissing Wong's appeal of the IJ's removal order for the third time. The BIA concluded that (i) "conviction" is defined as a "formal judgment of guilt entered by a court" in "a genuine criminal proceeding" involving the "minimum constitutional protections" of criminal procedure; (ii) Wong's New Jersey proceeding met this standard; and, accordingly, (iii) the offense was a crime involving moral turpitude. *Matter of Wong*, 28 I. & N. Dec. 518, 521, 523, 528 (B.I.A. 2022) (internal quotation marks omitted).

Wong once more appealed the BIA's decision to this Court, this time challenging the BIA's definition of conviction as "arbitrary and capricious" and its "retroactive" application to his case. *Wong v. Garland*, 95 F.4th 82, 88, 92 (2d Cir. 2024). We denied Wong's petition, holding that (i) the agency's interpretation of the term "conviction" warranted *Chevron* deference; (ii) the agency's "interpretation of that term [was] reasonable" and its retroactive application "appropriate"; and (iii) "[a]s a result," "Wong's disorderly persons offense under New Jersey law constituted a 'conviction' for a 'crime' for purposes of removal." *Id.* at 89.

Wong subsequently petitioned the Supreme Court for review. In November 2024, the Supreme Court granted certiorari, vacated the judgment, and remanded the case for "further consideration in light of *Loper Bright*." *Wong*, 145 S. Ct. at 432.

On remand, we focus solely on the definition of the term "conviction" as set forth in section 1101(a)(48)(A).[1] Wong argues that the BIA's interpretation is not the "best reading" of that statutory term, *Loper Bright*, 603 U.S. at 400, because it is "myopic[ally] focus[ed] on procedure" without reference to any of the "relevant interpretative tools" available to courts when interpreting a statute.[2] Wong Suppl.

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[1] Wong does not challenge our prior holdings as to the definition of a "crime involving moral turpitude" in either his initial briefs or supplemental papers. He has therefore forfeited these arguments. *See JP Morgan Chase Bank v. Altos Hornos de Mexico, S.A. de C.V.*, 412 F.3d 418, 428 (2d Cir. 2005).

[2] The BIA's interpretation of "conviction" turns entirely on the nature of the proceedings in which a defendant was found guilty. According to the BIA, "a proceeding is criminal in nature" (and

Br. at 2–3, 6. Wong instead advocates for a definition that takes into account (i) a state's classification and labelling of an offense and (ii) the "collateral" consequences that the state imposes for it. *Id.* at 6–14.

II. LEGAL STANDARDS

Since the Supreme Court's decision in *Loper Bright*, courts need not, and in fact "may not[,] defer to an agency interpretation of the law simply because a statute is ambiguous." 603 U.S. at 413. In the post-*Chevron* era, agency interpretations of statutes are "not entitled to deference." *Id.* at 392. Rather, it is "the responsibility of the court to decide whether the law means what the agency says" by "applying all relevant interpretive tools" to "determine the best reading of the statute." *Id.* at 392, 400. That is a legal question, which we review *de novo*. *See Vasquez v. Garland*, 80 F.4th 422, 428–29 (2d Cir. 2023).

III. DISCUSSION

"As with any question of statutory interpretation, we begin with the text of the statute to determine whether the language at issue has a plain and unambiguous meaning." *Catskill Mountains Chapter of Trout Unlimited, Inc. v. Env't Prot. Agency*, 846 F.3d 492, 512 (2d Cir. 2017). And we "assum[e] that the ordinary

can thus result in a conviction under the INA) "when it provides the accused with the minimum federal constitutional protections required to impose criminal penalties." Gov't Suppl. Br. at 2.

meaning of that language accurately expresses the legislative purpose." *Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist.*, 541 U.S. 246, 252 (2004).

As relevant here, the INA defines a "conviction" as "a formal judgment of guilt of the alien entered by a court." 8 U.S.C. § 1101(a)(48)(A). At the outset, we note that any "formal judgment of guilt" within the statutory definition of conviction is limited to those of a criminal nature; that conclusion follows from the word "conviction" itself. *See Fla. Dept. of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 47 (2008) (noting that the headings of a section "are tools available for the resolution of a doubt about the meaning of a statute") (internal quotation marks omitted)). In common usage, a "conviction" is "the result of a criminal trial" (or plea), "which ends in a judgment or sentence that the accused is guilty as charged." *Conviction*, BLACK'S LAW DICTIONARY (6th ed. 1990). And virtually everywhere within the INA, the term "conviction" or "convicted" appears in conjunction with the word "crime," or with a specified crime in the statute's substantive provisions. *See Sturgeon v. Frost*, 577 U.S. 424, 438 (2016) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme."). For example, section 1182(a)(2)(A) is titled "Conviction of certain crimes"; section 1227(a)(2)(A)(i)(I) refers to aliens who are "convicted of a crime involving moral turpitude"; and section 1158(b) refers to "an alien who has been convicted of an aggravated felony." Accordingly, we have no doubt that a "conviction" refers to a "formal judgment of guilt" in a *criminal* matter. 8 U.S.C. § 1101(a)(48)(A).

But what constitutes a "formal judgment of guilt" in a criminal matter? Neither we nor the Supreme Court has previously defined the phrase, and section 1101(a)(48)(A) of the INA does not expound on it. *See Wong*, 95 F.4th at 89 ("[I]t is not clear what Congress intended by using the phrase 'a formal judgment of guilt.'"). Nonetheless, the provisions surrounding section 1101(a)(48)(A) – in particular, subsections 1101(a)(48)(A)(i) and (ii) – offer critical guidance. *See K Mart Corp. v. Cartier*, 486 U.S. 281, 291 (1988) ("In ascertaining the plain meaning of a statute, the court must look to the particular statutory language at issue, as well as the language . . . of the statute as a whole."). These subsections refer both to (i) the *process* by which a finding of guilt is reached, and (ii) the "*punishment*" or "penalt[ies]" that follow. 8 U.S.C. § 1101(a)(48)(A)(i)–(ii) (emphasis added).

To be sure, we recognize that these subsections do not themselves modify the phrase a "formal judgment of guilt"; rather, they define a second type of conviction within the INA – one in which "adjudication has been withheld" and so no formal judgment of guilt has been entered on the docket. *Puello v. Bureau of Citizenship & Immigr. Servs.*, 511 F.3d 324, 329 (2d Cir. 2007). But this Court has previously clarified that Congress included these two types of convictions in the INA to integrate "run-of-the-mill" convictions – in which a court "[finds] a defendant guilty, by way of either a verdict or a guilty plea, sentence[s] him or her, and enter[s] a formal judgment on the docket" – with convictions following those *same* proceedings but in which a state criminal scheme has "withheld" or "expunge[d]" the formal judgment. *Id.* at 331–33 ("Looking closely at the 'conviction' definition in the INA demonstrates that its purpose is to contrast the run-of-the-mill 'formal judgment of guilt' with a vast array of procedures states had devised to mitigate the effects of criminal convictions. As such, defendants found guilty of an aggravated felony and sentenced would be treated uniformly, regardless of whether formal judgment was deferred or vacated.").[3] Accordingly, a conviction arising from a "'formal judgment of guilt' is different from" a conviction arising from "a deferred adjudication *only* at the point of . . . entry of

[3] Numerous states have enacted statutes in which courts may, in certain circumstances, "withhold" formal adjudications of guilt or expunge them after the fact, such as when a defendant can demonstrate that he or she has been fully rehabilitated. *See, e.g.*, *Wellington v. Holder*, 623 F.3d 115, 117–18 (2d Cir. 2010) (describing expungement procedures in New York state). As we have noted, Congress meant to ensure that convictions deferred or expunged pursuant to these various state laws would still count for immigration purposes. *See Puello*, 511 F.3d at 329–30.

judgment"; otherwise, both share all the same elements. *Id.* at 329–30 (emphasis added).

Looking to the subsections defining criminal convictions in which adjudication is withheld, we therefore conclude that a conviction in which a "formal judgment of guilt" is entered turns on (i) the *process* by which the finding of guilt is reached, and (ii) the criminal "*punishment*" that follows at sentencing. 8 U.S.C. § 1101(a)(48)(A)(i)–(ii) (emphasis added). This interpretation accords with the statute's text and structure as well as our precedent. *See* 8 U.S.C. § 1101(a)(48)(A)(i)–(ii); *Puello*, 511 F.3d at 328, 332–33.

A. "Formal Judgments of Guilt" Must Follow From Proceedings in Which Defendants Received Foundational Criminal-Procedural Protections.

As suggested by section 1101(a)(48)(A)(i), the *process* by which a court arrives at a formal judgment of guilt informs whether that judgment will be deemed a criminal conviction under the INA. *Puello*, 511 F.3d at 332–33. And that process must be understood in a way that "make[s] sense . . . of" the broader American "*corpus juris*," *W. Va. Univ. Hosps., Inc. v. Casey*, 499 U.S. 83, 100–01

(1991), which requires certain constitutional procedures and safeguards for all criminal proceedings, thereby distinguishing them from civil ones.

Most fundamentally, guilt in criminal proceedings must be found "beyond a reasonable doubt"; indeed, a defendant cannot be found guilty under any other "measure of persuasion." *Apprendi v. New Jersey*, 530 U.S. 466, 478 (2000) (internal quotation marks omitted). And if a defendant chooses instead to forego trial and plead guilty, the plea amounts to the legal equivalent of a jury finding beyond a reasonable doubt. *See United States v. Norris*, 281 U.S. 619, 623 (1930) ("After the plea, nothing is left but to render judgment, for the obvious reason that in the face of the plea no issue of fact exists.").

The Constitution, the Supreme Court, and this Circuit have also identified a host of other protections that courts must afford defendants in criminal proceedings. These include the defendant's right to notice of the accusations, *Cole v. Arkansas*, 333 U.S. 196, 201 (1948); the presumption of innocence, *Coffin v. United States*, 156 U.S. 432, 453 (1895); a speedy and public trial, *Barker v. Wingo*, 407 U.S. 514, 515 (1972), at which a defendant may confront his accusers and "the witnesses against him," *Hemphill v. New York*, 595 U.S. 140, 144 (2022); compulsory process for obtaining witnesses in the defendant's favor, *Barker*, 407 U.S. at 515 n.1; and immunity from a second prosecution for the same offense, *Denezpi v. United States*, 596 U.S. 591, 594 (2022). These protections constitute "the great bulwark of [our] civil and political liberties," *Apprendi*, 530 U.S. at 477 (quoting 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 540–41 (4th ed. 1873)), and have extended "down centuries into the common law," *id.* Indeed, they each reflect a "profound judgment about the way in which" criminal law "should be enforced and justice administered." *In re Winship*, 397 U.S. 358, 361–62 (1970) (quoting *Duncan v. Louisiana*, 391 U.S. 145, 155 (1968)).[4]

Given the "surpassing importance" of these protections in our law, *Apprendi*, 530 U.S. at 476, there can be little doubt that "criminal penalties may not be imposed on someone who has not" received them, *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 826 (1994) (quoting *Hicks v. Feiock*, 485 U.S.

[4] To be sure, courts have recognized the existence of other constitutional rights that apply more selectively to a subset of criminal proceedings for especially grave crimes. For example, the right to a *jury* trial attaches only if the charged offense is "serious," generally defined as a crime that exposes the defendant to imprisonment for more than six months. *Lewis v. United States*, 518 U.S. 322, 325–26 (1996). And a defendant has a constitutional right to counsel only if there is a possible loss of liberty, such as imprisonment. *See Scott v. Illinois*, 440 U.S. 367, 373–74 (1979). Similarly, the right to be indicted by a grand jury exists only for "capital, or otherwise infamous crime," which excludes "ordinary misdemeanor sentences of no more than a year in jail." *United States v. Smith*, 982 F.2d 757, 761 (2d Cir. 1992). However, as these protections are required for only a subset of crimes, their absence does not suggest that a proceeding is not criminal – merely that it is a criminal proceeding for an offense falling below a certain degree of "serious[ness]." *Lewis*, 518 U.S. at 325–26.

624, 632 (1988)). It follows that the "best reading" of the phrase "formal judgment of guilt" in section 1101(a)(48)(A) necessarily entails a proceeding in which these protections are guaranteed. *Loper Bright*, 603 U.S. at 400.

B. "Formal Judgments of Guilt" Must Result in Criminal Sentencing.

The other necessary ingredient for a "formal judgment of guilt" resulting in a conviction under the INA is for the judgment to culminate in a "sentencing," at which a judge imposes, or is empowered to impose, some form of punishment. *Puello*, 511 F.3d at 328. We have previously stated that a "formal judgment of guilt" involves a "sentencing" at which the court punishes the defendant and formally enters the conviction in the docket. *Id.* Indeed, section 1101(a)(48)(A)(ii) explicitly requires the court's imposition of "punishment" for the commission of an offense even where adjudication is withheld, thereby indicating that a judgment devoid of possible punishment cannot result in a conviction under the INA. 8 U.S.C. § 1101(a)(48)(A)(ii). This reading is, once again, consistent with the broader American *corpus juris*, since "punishment" is a basic "goal[]" of the criminal law and the culmination of all criminal judgments. *Doe v. Pataki*, 120 F.3d 1263, 1272 (2d Cir. 1997).

C. Wong's Interpretation Is Incompatible With the Text of the INA.

Applying the "relevant interpretive tools," *Loper Bright*, 603 U.S. at 400, we conclude that a "formal judgment of guilt" within the INA's definition of "conviction" must (i) follow from criminal proceedings in which the accused was guaranteed foundational criminal-procedural protections and (ii) culminate in criminal sentencing. *See* 8 U.S.C. § 1101(a)(48)(A)(i)–(ii); *Puello*, 511 F.3d at 328, 332–33. Wong proposes an alternative interpretation of "conviction" that turns on (i) "how [a] state classifies" a particular offense, and (ii) the nature of the "collateral consequences" that a state attaches to the offense's commission. Wong Br. at 33, 37. In Wong's view, if an offense is not classified as a "crime" under state law and does not entail the usual disabilities associated with criminal conduct, then the offense cannot result in a "conviction" under the INA. Wong Suppl. Br. at 15.

But nowhere does the text of the statute direct us to consider such factors. Indeed, the INA does not mention state classifications *anywhere* in its definition of conviction. This omission distinguishes the INA from the numerous federal statutes that *do* explicitly incorporate state law, such as the Assimilative Crimes Act, 18 U.S.C. § 13, and the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5361, among many others, *see, e.g.*, *Jerome v. United States* 318 U.S. 101, 106 n.5 (1943) (collecting statutes); 27 U.S.C. § 223 (regulating the transport of liquor); 25 U.S.C. § 357 (regulating land condemnation). And it is a longstanding principle of statutory construction that "in the absence of a plain indication of an intent to incorporate diverse state laws into" a statute, "the meaning of the federal statute should not be dependent on state law." *United States v. Turley*, 352 U.S. 407, 411 (1957). That is because when Congress "has desired to incorporate state laws in" federal statutes, "it has done so by specific reference or adoption." *Jerome*, 318 U.S. at 106. The INA's silence regarding state law is therefore fatal to Wong's argument. *See Saleh v. Gonzales*, 495 F.3d 17, 21 (2d Cir. 2007) (noting that the question of "whether one has been convicted within the language of federal statutes is necessarily . . . a question of federal, not state, law, despite the fact that the predicate offense and its punishment are defined by the law of the State." (alterations adopted)).

What is more, the INA, as one of the foremost immigration laws, affects "the entire Nation" and represents a "well[-]settled" domain of "[*f*]*ederal* governance." *Arizona v. United States*, 567 U.S. 387, 395–96 (2012) (emphasis added). As we have previously explained, "uniformity in the enforcement of immigration laws was one of Congress's goals in passing the 1996 amendments to the INA, which broadened the definition of conviction under section 1101(a)(48)(A)." *Wong*, 95 F.4th at 90 (alterations adopted) (quoting *Saleh,* 495 F.3d at 24). Against that backdrop, Wong's interpretation, which would require us to conclude that Congress set out to achieve its goal of federal uniformity by embracing the "divers[ity]" and vagaries of substantive state law, *Turley*, 352 U.S. at 411, simply beggars belief.

Wong's assertion that we should consider the "collateral consequences" of an offense in construing the meaning of "conviction" is similarly unpersuasive. Wong Br. at 33, 37. For starters, this interpretation once again incorrectly ties the meaning of conviction to a state's "statutory delict[s]." *Texas & P. Ry. Co. v. Cox*, 145 U.S. 593, 604 (1892). More fundamentally, it disregards (i) our precedent's emphasis on "sentencing" as the relevant consequence of a conviction under the INA, *Puello*, 511 F.3d at 328, and (ii) the INA's references to "punishment[s], penalt[ies], or restraint[s]," 8 U.S.C. § 1101(a)(48)(A)(ii), to focus instead on the secondary effects of an offense on an individual's "right[] to vote, hold public office, serve on a jury, and possess firearms," Wong Suppl. Br. at 10 (internal quotation marks omitted). Surely, if "Congress intended to" include such consequences in its definition of conviction, it "would have done so expressly."

Russello v. United States, 464 U.S. 16, 23 (1983). Unfortunately for Wong, "Congress did not write the statute that way." *Id.*

In short, given (i) the INA's plain text; (ii) the "undoubted power" of the federal government "over the subject of immigration," *Arizona*, 567 U.S. at 394; and (iii) the statute's goal in achieving uniformity, we conclude that Wong's state-focused interpretation of the INA is implausible. It therefore cannot be the "best reading" of the statute. *Loper Bright*, 603 U.S. at 400.

D. Wong's Disorderly Persons Offense Is a Conviction Under the INA.

Having determined the "best reading" of the term "conviction" in the INA, we turn to the question at the heart of this appeal: did Wong's conviction for the offense of theft by deception in violation of N.J. Stat. Ann. § 2C:20-4 constitute a "conviction" under section 1101(a)(48)(a)? Because a proceeding for this offense includes, as a matter of right, the core criminal-procedural protections outlined above, and because a judgment of guilt for such an offense culminates in criminal sentencing, we conclude that the answer is yes.

To secure a conviction for theft by deception, the State of New Jersey must prove every element of the offense beyond a reasonable doubt. *See Avila v. Att'y Gen.*, 82 F.4th 250, 260 (3d Cir. 2023). The state must also afford the accused "the rights to confront [his] accuser, a speedy and public trial, notice of the accusations, compulsory process for obtaining witnesses in [his] favor, and" immunity against a second prosecution "for the same offense." *Id.* Because this list includes the minimum constitutional safeguards that we identified above, Wong's offense accords both with our precedents on the INA, *see Puello*, 511 F.3d at 323–33, and the necessary protections specified by related provisions of the statute, *see* 8 U.S.C § 1101(a)(48)(A)(i).

Wong's offense also satisfies the sentencing component of our interpretation. Individuals convicted of theft by deception under New Jersey law are subject to a criminal sentence, including up to a six-month term of imprisonment (and a fine of $1,000). N.J. Stat. Ann. §§ 2C:43-3c 8, 2C:43-8. While Wong was ultimately ordered to pay a fine only, the *possibility* of incarceration – the "paradigmatic affirmative . . . restraint," *Smith v. Doe*, 538 U.S. 84, 100 (2003) – unquestionably signals that defendants found guilty of that offense must be "sentenced," *Puello*, 511 F.3d at 328, and that they face traditional criminal penalties when they are, *see* 8 U.S.C § 1101(a)(48)(A)(ii). We therefore conclude that Wong was "convicted" of a crime as defined under the INA.

IV. CONCLUSION

The Supreme Court directed us to reconsider our holding in light of *Loper Bright*. We have done so. But while we do not adopt the BIA's interpretation of "conviction" in the INA, we do agree with the BIA's conclusion that Wong was "convicted" of theft by deception for purposes of section 1101(a)(48)(A). Accordingly, we DENY Kwok Sum Wong's petition for review.