

# Fourth Circuit Departs From Agency Approach, Finds Vacated Convictions Cannot Trigger Immigration Inadmissibility

*Yanez Piedra v. Blanche*—The Death of *Chevron* Works in Mysterious Ways

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The United States Court of Appeals for the Fourth Circuit has issued a landmark published decision in *Yanez Piedra v. Blanche*, No. 25-1258, holding that a vacated criminal conviction cannot render a noncitizen inadmissible under the Immigration and Nationality Act (INA).

This decision marks a sharp departure from decades of agency practice and positions the Fourth Circuit as the first federal appellate court to squarely reject the Board of Immigration Appeals' long-standing *Matter of Pickering*, 23 I. & N. Dec. 621 (BIA 2003) framework in the post-*Matter of Chevron* era. *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

For four decades under the so-called “Chevron deference,” federal courts were required to defer to an executive agency’s reasonable interpretation of an ambiguous statute that the agency administers. However, as we discuss below, the US Supreme Court put an end to that deference in 2024.

## Background

Lizbeyde Yanez Piedra, a native and citizen of Mexico, came to the United States as a child and became a lawful permanent resident. In 2006, she was convicted of possession of marijuana and two counts of common-law forgery in North Carolina. Years later, upon returning from a brief trip to Mexico, she was placed in removal proceedings and found inadmissible as an “alien convicted of” a controlled-substance offense and a crime involving moral turpitude.

While her case was on appeal before the Board of Immigration Appeals (BIA), a North Carolina state court vacated her marijuana conviction and dismissed the underlying charge. Yanez Piedra asked the BIA to remand the case in light of the vacatur.

The BIA refused, applying its framework from *Pickering*, *supra*, and concluded that her conviction still counted for immigration purposes because it had not been vacated due to a “substantive or procedural defect” in the underlying criminal proceedings.

## The Old Rule: *Pickering* and Its Reason-for-Vacatur Distinction

For over two decades, the BIA’s *Pickering* framework governed the treatment of vacated convictions in immigration proceedings. Under *Pickering*, a vacated conviction still counted against a noncitizen unless it was vacated because of a defect in the underlying criminal proceedings, such as ineffective assistance of counsel or a constitutional violation.

If the conviction was vacated for “rehabilitative purposes” or to avoid immigration consequences, even with the prosecutor’s agreement, the BIA treated it as if the conviction still existed. This meant that even when a state court formally wiped the slate clean, immigration judges could look behind the vacatur order and second-guess the state court’s motivations.

Most federal circuits had accepted this framework, largely under the umbrella of *Chevron* deference to the BIA’s interpretation of the INA.

## Enter *Loper Bright* and the End of *Chevron* Deference

The legal landscape shifted dramatically in June 2024 when the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), overruling *Chevron* and holding that courts must exercise their own independent judgment in interpreting statutes rather than deferring to agency interpretations.

For immigration practitioners, *Loper Bright* opened the door to challenge long-entrenched BIA precedents that had survived judicial scrutiny only because courts felt compelled to defer.

## The Fourth Circuit’s Analysis

Freed from *Chevron*’s constraints, the Fourth Circuit conducted its own independent textual analysis of § 1182(a)(2)(A)(i) of the INA, which makes inadmissible “any alien convicted of” certain offenses.

## Plain Language: A Present-Status Inquiry

The court concluded that “any alien convicted of” an offense is best read as a present-status inquiry, asking whether the person *currently stands convicted*, not a historical-fact inquiry into whether the person *was ever convicted*.

The court drew analogies to everyday usage: just as a restaurant offering a military discount to “any person married to an active-duty service member” would not extend that discount to an ex-spouse, the statute addresses a person’s current legal status, not their history.

The court contrasted this language with other provisions of the INA that explicitly use historical-fact language, such as 8 U.S.C. § 1101(f)(8), which refers to a person “who at any time has been convicted of an aggravated felony.” Had Congress intended the same historical meaning in § 1182(a)(2)(A)(i), it would have used similar language.

## The Vacatur Principle from *Hewitt v. United States*

The court also relied on the Supreme Court’s 2025 decision in *Hewitt v. United States*, 606 U.S. 419 (2025), which articulated a background legal presumption that “vacated court orders are void *ab initio* and thus lack any prospective legal effect.”

The *Hewitt* Court stated directly: “A criminal defendant whose judgment of conviction has been vacated . . . is to be treated going forward as though he were never convicted.”

## Rejection of *Pickering*

Applying these principles, the Fourth Circuit held that the *Pickering* framework, which distinguishes between “good” and “bad” reasons for vacatur, has no basis in the statutory text. **The statute simply does not ask *why* a conviction was vacated.**

Whether a conviction was vacated because of a constitutional defect, prosecutorial agreement, rehabilitation, or immigration hardship, the result is the same: the person is no longer “convicted of” the offense.

The court acknowledged that *Pickering* may represent good policy, but emphasized that “good policy doesn’t always make for good statutory interpretation.” The statute does not authorize immigration judges to peer behind state court orders and evaluate whether the state had a sufficiently “good” reason to vacate.

## What This Means for Practitioners

The practical implications for noncitizens in the Fourth Circuit (Maryland, Virginia, West Virginia, North Carolina, and South Carolina) are significant:

### A Vacated Conviction is Not a Conviction

- If a noncitizen's criminal conviction has been vacated—for any reason—it cannot serve as a basis for inadmissibility under § 1182(a)(2)(A)(i). The reason for the vacatur is irrelevant.

## Post-Conviction Relief Matters Again

- Noncitizens facing removal based on criminal convictions now have a strong incentive to pursue post-conviction relief in state court. A successful vacatur, regardless of the basis, can eliminate the conviction that triggers inadmissibility or bars relief from removal.

## Possible Ripple Effects

- While the decision expressly addresses only § 1182(a)(2)(A)(i) and does not address other statutory provisions (such as § 1101(f)(8), which uses different language), its reasoning may influence how other statutes referencing convictions are interpreted going forward.

## Circuit Split Deepens

- The Fourth Circuit's decision creates a sharper split with circuits that have adopted *Pickering*, which may eventually prompt Supreme Court review.

## Limitations

The court was careful to note several things it was *not* deciding:

- The decision does not address convictions that have been expunged, set aside, or otherwise modified (as opposed to vacated).
- It does not address how vacated convictions are treated under other INA provisions with different statutory language.
- It leaves open the relevant timeframe for assessing whether someone is “convicted of” an offense, whether at the time of admission, the immigration judge's decision, or the BIA's decision.
- It does not address the effect of Yanez Piedra's initial concession of removability.

## The Bottom Line

- *Yanez Piedra v. Blanche* is a direct product of *Chevron* being overturned and the post-*Loper Bright* legal environment. With courts no longer required to defer to agency interpretations, the Fourth Circuit took a fresh look at the text and concluded that the BIA's decades-old *Pickering* framework simply cannot be reconciled with the actual text of the statute.

- **The new rule in the Fourth Circuit is straightforward:** if your conviction has been vacated, you are not “convicted of” anything for purposes of inadmissibility under § 1182(a)(2)(A)(i).
- **For immigration practitioners, the message is clear:** pursue post-conviction relief aggressively, especially in the Fourth Circuit. A vacated conviction is no conviction at all.

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