

CRIMMIGRATION UPDATE

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CONTROLLED SUBSTANCES

- *Vazquez v. Sessions*, 885 F.3d 862 (5th Cir. 2018)
- *Lopez Ventura v. Session*, 907 F.3d 306 (5th Cir. 2018)
- *Vetcher v. Barr*, 953 F.3d 361 (5th Cir. 2020)
- *Alexis v. Barr*, 960 F.3d 722(5th Cir. 2020)

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CONTROLLED SUBSTANCES

- Identifying the issues
- Strictly applying the Categorical Test
 - What are the elements of the statute of conviction?
 - What does the record of conviction show?
 - Is it really a federally controlled substance?
 - Was it a federally controlled substance at the time of the arrest?
- Preserving the issues
- Marshaling your evidence of the statute's overbreadth

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Realistic Probability

- *Vazquez v. Sessions*, 885 F.3d 862 (5th Cir 2018)
 - OK; Possession of a Controlled Substance
 - Categorical Approach
 - OK statute of conviction broader than federal analog
 - Realistic Probability
 - A defendant must point to an actual case

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Realistic Probability

- *Lopez Ventura v. Sessions*, 907 F.3d 306 (5th Cir 2018)
 - LA; Possession of CS (AB-CHMINACA), retroactivity
 - After arrest, but before conviction, drug added to federal schedule of controlled substances
 - Check your drugs and check your dates

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Realistic Probability

- *Vetcher v. Barr*, 953 F.3d 361(5th Cir 2020)
 - TX; controlled substance TX HSC 481.113(d)
 - Not a facial categorical match
 - Failed realistic probability test

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