

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Jean Pugin v. Merrick Garland

No. 20-1363, United States Court of Appeals for the Fourth Circuit (March 7, 2022)

SUMMARY

The Fourth Circuit held that the Board of Immigration Appeals' definition of "obstruction of justice" under 8 U.S.C. § 1101(a)(43)(S) is entitled to Chevron deference, and that Virginia's accessory-after-the-fact offense categorically qualifies as an aggravated felony because it requires specific intent to hinder punishment. The court rejected arguments that the rule of lenity displaces Chevron due to potential criminal consequences, finding the civil immigration statute's indirect effect on future criminal prosecutions too attenuated. Key topics: immigration removal, aggravated felony, obstruction of justice, accessory after the fact, Chevron deference, categorical approach, and specific intent.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Richardson; Gregory; Agee
JURISDICTION	Federal
DECIDED	March 7, 2022
DOCKET	20-1363
DISPOSITION	affirmed
PROCEDURAL POSTURE	On Petition for Review of an Order of the Board of Immigration Appeals
STANDARD OF REVIEW	Legal decisions of the BIA are reviewed de novo, but Chevron deference applies to the BIA's interpretation of the INA. The categorical approach is applied to state law.
PRECEDENTIAL VALUE	Published
PARTIES	Jean Francois Pugin v. Merrick B. Garland, Attorney General

TOPICS

- removal proceedings
- deportation
- statutory interpretation
- criminal procedure
- standard of review

PRACTICE AREAS

- Immigration Law
- Criminal Law

QUESTIONS PRESENTED

1. Whether the BIA's definition of 'obstruction of justice' under 8 U.S.C. § 1101(a)(43)(S) is entitled to Chevron deference.
2. Whether the phrase 'relating to obstruction of justice' is ambiguous.
3. Whether the BIA's interpretation requiring only a reasonably foreseeable proceeding is reasonable.
4. Whether Virginia's accessory-after-the-fact offense categorically matches the generic definition of obstruction of justice, specifically whether it requires specific intent.

HOLDINGS

1. The BIA's interpretation is entitled to Chevron deference because the phrase is ambiguous and the BIA's definition is reasonable. Virginia accessory after the fact requires specific intent to help a known felon avoid punishment, which categorically matches the generic definition of obstruction of justice. Therefore, Pugin's conviction is an aggravated felony and he is removable.

KEY QUOTATIONS

"We first find that the Board of Immigration Appeals' definition of 'obstruction of justice' under the Act is due Chevron deference." (at 2)

"The Board defined 'offenses relating to obstruction of justice' as requiring '(1) an affirmative and intentional attempt (2) that is motivated by a specific intent (3) to interfere either in an investigation or proceeding that is ongoing, pending, or reasonably foreseeable by the defendant, or in another's punishment resulting from a completed proceeding.'" (at 4)

"Virginia uses the common-law definition of accessory after the fact. ... At the very least, the parties agree that this requires: (1) a completed felony; (2) that the person giving aid knows the felon is guilty; and (3) that the accused receives, relieves, comforts, or assists the felon." (at 5)

"The true test whether one is accessory after the fact, is to consider whether what he did was done by way of personal help to his principal, with the view of enabling his principal to elude punishment." (at 24)

"We therefore defer to the Board's definition." (at 22)

"So Virginia accessory after the fact categorically matches the Board's generic definition of obstruction of justice." (at 29)

FACTUAL BACKGROUND

Jean Francois Pugin, a native of Mauritius, became a lawful permanent resident in 1985. In 2014, he pleaded guilty in Virginia to being an accessory after the fact to a felony, receiving a 12-month sentence with 9 months suspended. The government then sought his removal, claiming the conviction was an aggravated felony under 8 U.S.C. § 1101(a)(43)(S) as an offense relating to obstruction of justice.

PROCEDURAL HISTORY

Pugin, a lawful permanent resident, was convicted in Virginia of being an accessory after the fact. The government initiated removal proceedings, charging him with an aggravated felony (obstruction of justice). The immigration judge found him removable, and the Board of Immigration Appeals affirmed. Pugin petitioned for review to the Fourth Circuit.

DISPOSITION

affirmed

CASES CITED

- Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)
- In re Valenzuela Gallardo II, 27 I. & N. Dec. 449 (B.I.A. 2018)
- Wren v. Commonwealth, 67 Va. 952 (1875)
- Mathis v. United States, 136 S. Ct. 2243 (2016)
- Commonwealth v. Dalton, 259 Va. 249 (2000)
- Buck v. Commonwealth, 116 Va. 1031 (1914)
- Suter v. Commonwealth, 67 Va. App. 311 (2017)
- Manley v. Commonwealth, 222 Va. 642 (1981)
- United States v. White, 771 F.3d 225 (4th Cir. 2014)
- Valenzuela Gallardo v. Barr, 968 F.3d 1053 (9th Cir. 2020)
- Flores v. Att'y Gen. United States, 856 F.3d 280 (3d Cir. 2017)
- Esquivel-Quintana v. Sessions, 137 S. Ct. 1562 (2017)
- Leocal v. Ashcroft, 543 U.S. 1 (2004)
- Arthur Andersen LLP v. United States, 544 U.S. 696 (2005)
- United States v. Young, 916 F.3d 368 (4th Cir. 2019)