“Conviction” for Immigration Purposes: A formal judgment of guilt of the noncitizen entered by a court OR, if adjudication of guilt has been withheld, where:

(i) a judge or jury has found the noncitizen guilty or the noncitizen has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, AND
(ii) the judge has ordered some form of punishment, penalty, or restraint on the noncitizen’s liberty.

- Certified as Adult
- Continued for Dismissal with Stipulated Facts (IF sufficient to show guilt)
- Deferred Prosecution for First-time Drug Offenders (Minn. Stat. § 152.18)
- Expungement
- Goulette/Alford Plea (can be helpful for divisible statutes)
- Guilty Plea/Finding of Guilt
- Executed Sentence
- Nolo Contendere ("no contest") Plea (can be helpful for divisible statutes)

“Not a Conviction”

- Acquitted
- Dismissal (or Dismissal in Interest of Justice) (but still a conviction IF dismissed after conditions met)
- Continued without Findings or Admission of Facts
- Continued for Dismissal with Stipulated Facts (IF client does NOT admit guilt or facts sufficient to prove guilt)

Arguably Not a Conviction (But Assume Not Safe)

- Extended Juvenile Jurisdiction (EJJ) (Bad unpublished BIA case law)
- Payables

NOT A CONVICTION

- ANY Juvenile Delinquency (Except Extended Juvenile Jurisdiction)
- Plea Withdrawal (IF due to constitutional or statutory defect)
- Pretrial Diversion/Problem-Solving Court (IF client does NOT admit guilt or facts sufficient to prove guilt)
- Suspended prosecution
- Vacated (for constitutional or statutory defect)

CONVICTION

- Norgaard Plea (can help for divisible statutes)
- Pretrial Diversion/Problem-Solving Court (IF client admits guilt or facts sufficient to prove guilt)
- Pardons (but can ameliorate some immigration consequences)
- Stay of Adjudication
- Stay of Execution
- Stay of Imposition
- Vacated (IF vacated for anything other than constitutional or statutory defect)

Things to Keep in Mind

- Immigration law defines “conviction” broadly to include offenses that are not convictions in state court. If an offense is a “conviction” for immigration purposes, it may have immigration consequences.
- The length of a defendant’s sentence and/or ambiguity in the sentencing order can create deportation issues.
- Convictions for certain kinds of offenses can make defendants deportable, regardless of sentence: drugs, prostitution, firearms, domestic violence, violations of orders for protection, stalking, and crimes against children.
- If possible, avoid jail/prison sentences (probation is better).
- Suspended sentences with specified jail/prison time hanging over defendant’s head are treated as executed sentences for immigration and carry the same consequences.
- If possible, avoid admitting guilt or facts sufficient to prove guilt. Avoid admitting facts showing baseness, vileness, depravity, or reprehensible conduct ("moral turpitude").
- If eligible for DACA, avoid incarceration of 90 days or more.
- In situations where sentence length matters, Stay of Imposition is preferable to Stay of Execution because it can avoid an aggravated felony finding in some cases.
- Avoid sentences of 365 days or more to avoid some aggravated felonies:
- Some crimes are aggravated felonies regardless of sentence, such as murder, rape, sexual abuse of a minor, drug or firearms trafficking, child pornography, managing prostitution, offenses that involves fraud or deceit, failure to appear for a felony.
- Petty Misdemeanors can be safe for Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA).

DISCLAIMER: This document is NOT INTENDED to serve as legal advice on individual cases or be comprehensive. Rather, it is intended to give general information. If you have an individual case, please seek professional advice.