

On October 25, 2019, the Attorney General decided *Matter of Castillo-Perez*. This case deals with the meaning of “good moral character” under INA § 101(f) (8 U.S.C. 1101(f)).

Proof of good moral character is required for various applications in immigration law, most commonly naturalization and cancellation of removal. INA § 101(f) enumerates several categories, including some based on criminal history, that bar a person from establishing good moral character, but also states that these categories are not exclusive—the fact that a person is not within any of those categories “shall not preclude a finding that for other reasons such person is or was not of good moral character.”

In *Castillo-Perez*, the Attorney General held that two or more OWI convictions during the relevant period for good moral character establishes a “rebuttable presumption” that the person lacked or lacks good moral character. *Castillo-Perez*, 27 I&N Dec. 664, 665 (A.G. 2019). Though OWIs are not offenses enumerated in section 101(f), or anywhere in the INA, as particularly pertinent to good moral character, this decision rested on the generic principle that “[g]ood moral character requires adherence to the generally accepted moral conventions of the community, and criminal activity is probative of non-adherence to those conventions.” *Id.* at 669. Evidence of two or more OWI convictions during the relevant period for good moral character therefore also presumptively establishes that a person is not eligible to naturalize or be granted cancellation of removal.

Where clients have, or are facing, more than one OWI conviction, defense counsel should advise that they while they are not statutorily ineligible to establish good moral character, they will be unable to do so unless they can overcome this presumption with “substantial relevant and credible contrary evidence.” *Castillo-Perez*, 27 I&N Dec. at 671. This advice is particularly important for clients who are otherwise eligible to naturalize and clients whose best form of relief from removal would be cancellation of removal for non-permanent residents. In such cases, clients should be aware that unless they can provide strong evidence of good moral character during the relevant period, beyond simply evidence of rehabilitation after their convictions, they will be unable to establish the requisite good moral character.