Washington University Journal of Law & Policy

Volume 58 *Current Issues in State Tax Symposium*

2019

Looking to Purpose: An Examination of Statutory Interpretation in Denaturalization Cases

A. Remi Balogun
J.D. Washington University in St. Louis School of Law (2018)

Looking to Purpose: An Examination of Statutory Interpretation in Denaturalization Cases

A. Remi Balogun*

INTRODUCTION

Dialogue about immigration and citizenship is often framed in political terms. This approach is logical as politicians are responsible for setting the immigration policies of the nation.[1] But beyond this basic logic, immigration is political because of its impact on people and its implications on our conceptions of belonging and humanity.[2] Imagine that after a lengthy process,[3] you become a citizen of the United States. It then comes to light that you made a misrepresentation during the naturalization process. The misrepresentation in question, is not one that would have changed whether you were granted citizenship.

Materiality is a legal concept that captures the influence and impact of a particular fact on a legal outcome. In the situation described above, the misrepresentation would not have impacted your acquisition of citizenship, as such, it is immaterial. Denaturalization is "the process by which a government deprives a naturalized citizen of all rights, duties, and protections of citizenship."[4] The immigration laws which govern whether individuals must leave the country or lose their citizenship are particularly

---

* J.D. Washington University in St. Louis School of Law (2018).

1. U.S. CONST. art. I, § 8, cl. 4. (giving Congress the right to establish uniform naturalization laws); *See also* Katherine Fennelly, Kathryn Pearson & Silvana Hackett, *The US Congressional Immigration Agenda: Partisan Politics, Policy Stalemate and Political Posturing*, 41 J. ETHNIC & MIGRATION STUD. 1412 (2015) (discussing congressional immigration action between 1993 and 2012).

2. Bill Ong Hing, *Ethics, Morality, and Disruption of U.S. Immigration Laws*, 63 U. KAN. L. REV. 981, 982 (2015) ("[E]nforcement of U.S. immigration laws over the past twenty years should make us wonder about the cost we are willing to pay to enforce the nation's immigration laws . . . the cost in terms of our basic humanity."). *See generally* Jens Manuel Krogstad, Jeffrey S. Passel & D'Vera Cohn, *5 facts about illegal immigration in the U.S.*, PEW RESEARCH CENTER. (NOVEMBER 3, 2016), http://w
ww.pewresearch.org/fact-tank/2016/11/03/5-facts-about-illegal-immigration-in-the-u-s/ (estimating 11.1 million undocumented immigrants reside in the United States as of 2015).

3. *See* U.S. CITIZENSHIP AND IMMIGRATION SERV.'S, M-476 A GUIDE TO NATURALIZATION (2016) (explaining that potential applicants must have permanent resident status for three or five years before they can even begin the application process).

4. *Denaturalization*, BLACK'S LAW DICTIONARY (10th ed. 2014).

known for their elevated stakes.[5]

For a time, the law governing whether an immaterial misrepresentation could result in the loss of your citizenship and the requirement that you leave the country depended upon where you resided.[6] In *United States v. Maslenjak* (*Maslenjak I*), [7] the Sixth Circuit held that proof of the materiality of a false statement was *not* a requirement to sustain a conviction for knowingly procuring naturalization contrary to law under the criminal denaturalization statute 18 U.S.C. § 1425(a).[8] Section 1425 applies to those who "knowingly procure" naturalization "contrary to law."[9] The Sixth Circuit determined that the statute itself *did not* contain a requirement of materiality.[10]

The Sixth Circuit's interpretation stood in contrast with the Ninth Circuit's decision in *United States v. Puerta* and its progeny, [11] all of which read a requirement of materiality into § 1425(a).[12] In *Puerta* the Ninth Circuit relied heavily on *Kungys v. United States*,[13] a Supreme Court decision interpreting the civil denaturalization provision, 8 U.S.C. § 1451(a).[14]

At first glance, the results of the Ninth Circuit decision in *Puerta* and the Sixth Circuit in *Maslenjak* differ due to the interpretative approaches

---

5. *Immigration and Nationality Act – Aggravated Felony* – Luna Torres v. Lynch, 130 HARV. L. REV. 477 (2016) (discussing impacts of deportation and aggravated felonies).

6. *See* Maslenjak v. United States, 137 S. Ct. 1918, 1924 (2017) (resolving circuit split created by the Sixth Circuit in *United States v. Maslenjak*). *See also* Gerald Seipp, *Federal Case Summaries*, 93 No. 17 INTERPRETER RELEASES Art. 16, Apr. 25, 2016 (describing this circuit split).

7. 821 F.3d 675 (6th Cir. 2016), *rev'd*, 137 S. Ct. 1918 (2017).

8. *Id.* at 682.

9. *Id.*

10. *Id*., "Based on the plain language of the statute as well as the overall statutory scheme for denaturalization, we hold that proof of a material false statement is not required to sustain a conviction under 18 U.S.C. § 1425(a)."

11. 982 F.2d 1297 (9th Cir. 1992).

12. *See e.g.*, United States v. Alferahin, 433 F.3d 1148, 1537 (9th Cir. 2006); United States v. Latchin, 554 F.3d 709, 715 (7th Cir. 2009); United States v. Aladekoba, 61 F. App'x. 27, 28 (4th Cir. 2003) (unpublished opinion); United States v. Agyemang, 230 F.3d 1354, (4th Cir. 2000) (unpublished table opinion); United States v. Agunbiade, 172 F.3d 864 (4th Cir. Jan. 25, 1999) (unpublished table opinion).

13. 485 U.S. 759 (1988).

14. *Puerta*, 982 F.2d at 1301 (stating "Further, the government agrees with Puerta that § 1425(a) implies a materiality requirement similar to the one used in the denaturalization context. This position finds support in *Kungys v. United States,* 485 U.S. 759, 108 S.Ct. 1537, 99 L.Ed.2d 839 (1988), the leading denaturalization case. . ..").

chosen. The Ninth Circuit utilized reasoning from a prior court decision on a similar issue, while the Sixth Circuit relied on a reading of the plain language. However, the Supreme Court in *Maslenjak v. United States* (*Maslenjak II*), [15] took an approach similar to the Sixth Circuit and looked to the text of the statute. But despite the similar interpretive approach, the Court vacated the Sixth Circuit opinion and found that "[t]o get citizenship unlawfully… is to get it through an unlawful means— and that is just to say that an illegality played some role in its acquisition."[16] This standard echoes the materiality standard we see from the Ninth Circuit in *Puerta*.[17]

This Note uses these denaturalization cases to examine the importance of citizenship and the role of ideology, language, and the tools of statutory interpretation in assessing the meaning of a statute. Ultimately, this Note suggests that while looking to the plain language may be a first step in interpreting statutes, it cannot and should not be the end of the analysis when doing so stands in conflict with prior cases and discounts the practical repercussions faced by those found in violation of the statute.

Part II of this Note begins with a look at citizenship and its importance. This is followed by an overview of the legislative and judicial history of denaturalization. This history includes the origins of denaturalization in the United States, the Immigration and Nationality Act of 1952,[18] the relevant denaturalization statutes, and *Kungys v. United States.*[19] Part II then goes on to discuss circuit court decisions in *United States v. Puerta*, *Maslenjak I*, and the Supreme Court opinion in *Maslenjak II.* Part II concludes with a discussion of principles of statutory interpretation.

Part III situates the circuit courts' holdings in *Puerta* and *Maslenjak I* in the broader context and examines the role that statutory interpretation played in the Supreme Court's approach to resolving the circuit split.

Part IV suggests that an alternative approach looking to the purpose and

15. 137 S. Ct. 1918 (2017).
16. *Id.* at 1925.
17. *Puerta*, 982 F.2d at 1303 (defining the test for materiality in a denaturalization as occurring when "misrepresentation or concealment had a 'natural tendency to produce the conclusion that the applicant was qualified for citizenship.'" (citing *Kungys v. United States*, 485 U.S. 759, 783-84) (Brennan, J., concurring)).
18. Immigration and Nationality Act of 1952, Pub. L. No. 82-414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C.).
19. 485 U.S. 759 (1988).

effects of the statute played a role in the interpretation of § 1425(a) and could be helpful in resolving similar inquires in future cases.

I. HISTORY

A. Citizenship

Citizenship is "the status of being a citizen" or the "quality of a person's conduct as a member of a community."[20] These two definitions highlight the status and relational elements of citizenship. But why does status as a citizen matter?

Since the nineteenth century, our conception of human rights has become progressively and almost exclusively linked to citizenship.[21] This contributes to citizenship often being viewed as a preferable condition; "the highest fulfillment of democratic and egalitarian aspiration."[22] Citizenship has been characterized as "the right to have rights."[23] Under the current law of the United States, some rights are associated exclusively with citizenship.[24] Citizens cannot be deported.[25] Voting rights are only available to citizens.[26] These rights, available exclusively through one's

20. *Citizenship*, BLACK'S LAW DICTIONARY (10th ed. 2014).

21. BEN HERZOG, REVOKING CITIZENSHIP: EXPATRIATION IN AMERICA FROM THE COLONIAL ERA TO THE WAR ON TERROR 16 (2015).

22. Linda Bosniak, THE CITIZEN AND THE ALIEN: DILEMMAS OF CONTEMPORARY MEMBERSHIP 1 (2006) (arguing that while common, this romantic portrayal of citizenship obscures the questions of inclusion and exclusion inherent in defining a group as belonging).

23. Perez v. Brownell, 356 U.S. 44, 64 (1958) (Warren, C.J., dissenting) ("Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen. He has no lawful claim to protection from any nation. ...").

24. Kevin Lapp, *Reforming the Good Moral Character Requirement for U.S. Citizenship*, 87 IND. L.J. 1571, 1581 (2012) (arguing that the main significance of citizenship today is the right to vote and the right to remain) *See also* Jon B. Hultman, *Administrative Denaturalization: Is There "Nothing You Can Do That Can't Be (Un)done"?*, 34 LOY. L.A. L. REV. 895, 898-902 (2001) (describing how the desirability of citizenship can be seen in the backlog of individuals trying to become citizens through naturalization programs).

25. *See* Cristina M. Rodríguez*, Beyond Citizenship: American Citizenship After Globalization. by Peter J. Spiro,* 103 AM. J. INT'L L. 180 (2009) (book review) (for a discussion on alienage, strict scrutiny and the distinctions drawn between the alien and the citizen, notably the right to not to be deported).

26. *Id.* at 186. "[T]he virtually indefeasible right to remain where you have a home, ties, and a livelihood, while invisible to most citizens, is what makes the status irreplaceable, and what leads to

status as citizen, support the statement that "citizenship sits atop a hierarchy of legal statuses respecting membership in the nation state."[27] Citizenship has value and the right to acquire it "is a precious one."[28]

A. Origins of Denaturalization in the United States

In 1904, President Theodore Roosevelt, responding to a flawed immigration system riddled with widespread abuses and lacking any real safeguards, pointed Congress towards the need for uniform legislation regarding the processes and proceedings of naturalization and denaturalization.[29] Congress has the power to grant and withhold the privilege of citizenship and the rights associated with it.[30] Roosevelt called "for the immediate attention of the Congress," and for "a comprehensive revision of the naturalization laws."[31] This call to action both echoed and augured the concerns of forgeries in naturalization that would remain throughout the early nineteenth century.[32] In March 1905, "Roosevelt

---

spikes in naturalization when immigration laws start to constrict." *Id.* at 186-87.

27. Kevin Lapp, *Reforming the Good Moral Character Requirement for U.S. Citizenship*, 87 IND. L.J. 1571 (2012).

28. Fedorenko v. United States, 449 U.S. 490, 505 (1981) ("[O]ur decisions have recognized that the right to acquire American citizenship is a precious one, and that, once citizenship has been acquired, its loss can have severe and unsettling consequences."); *see also* Lapp, *supra* note 25, at 1580 ("Congress has called it 'the most valued governmental benefit of this land.'" (quoting the Comm. on the Judiciary, Naturalization Amendments of 1989, H. Rep. No. 101-187, at 14 (1989))).

29. Aram A. Gavoor & Daniel Miktus, *Snap: How the Moral Elasticity of the Denaturalization Statute Goes Too Far*, 23 WM. & MARY BILL RTS. J. 637, 648 (2015). *See also* PATRICK WEIL, *THE SOVEREIGN CITIZEN: DENATURALIZATION AND THE ORIGINS OF THE AMERICAN REPUBLIC* 15-29 (2013).

30. *See* U.S. CONST. art. I, § 8, cl. 4. Article I provides that "Congress shall have the power . . . [t]o establish an uniform Rule of Naturalization." *Id*. *See also* U.S. CONST. art. I, § 9, cl. 1. (Concerning the ability of Congress to prohibit "migration and importation of such persons as any of the states now existing shall think proper to admit.").

31. Theodore Roosevelt, *Fourth Annual Message* (Dec. 6, 1904), *available at* http://www.presidency.
ucsb.edu/ws/?pid=29545; *see also Developments in the Law Immigration and Nationality*, 66 HARV. L. REV. 643 (1953).

32. Theodore Roosevelt, *Third Annual Message* (Dec. 7, 1903), *available at* http://www.presidency.ucsb.edu/ws/?pid=29544. *See also* United States v. Ness, 245 U.S. 319, 324 (1917) (where the court stated "wide-spread frauds in naturalization . . . were, in large measure due to the great diversities in local practice, the carelessness of those charged with duties in this connection, and the prevalence of perjured testimony in cases."). The Court in Ness further noted a workable remedy would include: "uniformity and strict enforcement of the law [that] could not be attained unless the Code prescribed also the exact character of proof to be adduced." *Id.*

appointed a commission to further investigate this proposal," and "[t]he Purdy Commission delivered its report on November 8, 1905."[33] This led to the Naturalization Act of 1906, a comprehensive revision and standardization of naturalization law.[34]

The Naturalization Act of 1906 created uniform guidelines for naturalization proceedings across the United States.[35] Congress provided the Government with the statutory power to file suits cancelling naturalization certificates obtained through "fraud" or "illegal procurement."[36] The judicial denaturalization procedure instituted by the Act "remains substantially intact to this day;" allowing the appropriate United States Attorney to file a civil complaint "upon affidavit showing good cause therefore."[37] The 1906 Act provided for both the acquisition of citizenship and the process of removing citizenship rights if they were found to be inappropriately attained.[38]

B. The Immigration and Nationality Act of 1952

The Immigration and Nationality Act of 1952 (INA or The Act)[39] is the federal law regulating immigration in the United States. The INA was passed following a four-year investigation by the Senate Judiciary Committee into the then existing immigration and naturalization laws.[40]

---

33. *See* WEIL, *supra* note 29, at 17.
34. Naturalization of Aliens Act of 1906, Pub. L. No. 59-338, 34 Stat. 596 (1906).
35. *Id. See also* WEIL, *supra* note 29, at 20-22.
36. Naturalization of Aliens Act of 1906, Pub. L. No. 59-338, 34 Stat. 596, 601 (1906).
37. Gorbach v. Reno, 219 F.3d 1087, 1100 (9th Cir. 2000) (en banc) (Thomas, J., concurring) (internal citation omitted) (describing the statutory scheme).
38. 34 Stat. 596, 601. *See also* Johannessen v. United States, 225 U.S. 227, 241 (1912) (stating "An alien has no moral nor constitutional right to retain the privileges of citizenship if, by false evidence or the like, an imposition has been practised upon the court, without which the certificate of citizenship could not and would not have been issued.").
39. Immigration and Nationality Act of 1952, Pub. L. No. 82-414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C.).
40. 99 CONG. REC. 1517 (1953) (Statement of Sen. McCarran):

> It was learned during the course of the Senate subcommittee's 4-year investigation that the pattern of our old immigration system had been established not only by 2 comprehensive immigration laws, but by over 200 additional legislative enactments. . .. The immigration laws, were moreover, so closely intertwined with the naturalization laws that it was essential for the two sets of laws to be considered together. . .. It was, therefore, decided to draft one complete omnibus bill which would embody all of the immigration and naturalization laws.

The Act reflects a comprehensive undertaking by Congress in an attempt to control immigration. Concerns about the admissibility of those seeking entry into the country and the honesty of how said admissibility is procured underlie the provisions of the INA.[41] These concerns are echoed in the Act's inclusion of a framework for a denaturalization proceeding.[42]

Prior to the enactment of the INA, denaturalization occurred only if the original naturalization decree was obtained by "fraud" or "illegal procurement."[43] Today's provisions mirror this idea by allowing for denaturalization if the citizenship was "illegally procured" or "procured by concealment of a material fact or by willful misrepresentation,"[44] or in cases where someone "knowingly procures . . . contrary to law. . . naturalization or of citizenship. . .."[45]

C. The Denaturalization Statutes

There are two provisions which lay out the conditions under which a naturalized person can have their citizenship revoked: 8 U.S.C. § 1451, Revocation of Naturalization,[46] and 18 U.S.C. § 1425, Procurement of Citizenship or Naturalization Unlawfully.[47] The first provision appears in the INA as codified in Title 8 of the United States Code which governs Aliens and Nationality. It reads:

---

41. Shari B. Gersten, United States v. Kungys*: Clarifying the Materiality Standard in Denaturalization Proceedings*, 38 AM. U. L. REV. 429, 435 (1989) ("In short, the legislative history of section 340(a) of the Immigration and Nationality Act of 1952 is strong evidence of Congress' intent to discourage individuals seeking naturalization from making false statements on their applications.").

42. 66 Stat. at 260-63. *See* Theodore Roosevelt, Third Annual Message (Dec. 7, 1903), available at http://www.presidency.ucsb.edu/ws/?pid=29544.

> Forgeries and perjuries of shameless and flagrant character have been perpetrated, not only in the dense centers of population, but throughout the country; and it established beyond doubt that very many so called citizens of the United States have no title whatever to that right and are asserting and enjoying benefits of the same through the grossest frauds.

43. *Developments in the Law Immigration and Nationality*, 66 HARV. L. REV. 643, 719 (1953) (discussing the impact of legislative, judicial, and administrative action prior to 1952 and whether the Immigration and Nationality Act of 1952 suitably resolves the then existing problems).

44. 8 U.S.C. § 1451(a) (2012). *See also* Fedorenko v. United States, 449 U.S. 490, 493 (1981).

45. 18 U.S.C. § 1425(a) (2012).

46. 8 U.S.C. § 1451.

47. 18 U.S.C. § 1425.

> It shall be the duty of the United States attorneys for the respective districts . . . to institute proceedings in any district court of the United States in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were *illegally procured or were procured by concealment of a material fact or by willful misrepresentation*. . ..[48]

This section sets out the process by which a person can face a civil denaturalization hearing. A United States attorney must bring proceedings in a district court on the ground that the naturalization was illegally procured or involved concealment of a material fact or willful misrepresentation.[49]

The second section, § 1425, governing denaturalization is found in Title 18 of United States Code which addresses crimes and criminal procedure.[50] It states "[w]hoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; . . . Shall be fined under this title or imprisoned. . . or both." [51]While the "statute does not define contrary to law. . . the phrase has been interpreted to be the law governing naturalization."[52] In addition to the possibility of fines and imprisonment described above, a criminal conviction under 1425 automatically results in the revocation of naturalization outlined in 8 U.S.C. § 1451(e).[53] A person convicted under the criminal statute is automatically denaturalized.[54] The court which has jurisdiction over the

48. 8 U.S.C. § 1451(a) (emphasis added).
49. *Id.*
50. 18 U.S.C. § 1425(a).
51. *Id.*
52. United States v. Agunbiade, No. 98-4581, 1999 WL 26937, *2 (4th Cir. Jan. 25, 1999) (internal quotations omitted) (affirming the lower court decision that a misrepresentation about a prior deportation is material).
53. 8 U.S.C. § 1451(e).
54. *Id.* ("When a person shall be convicted under section 1425 of title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had *shall* thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled.") (emphasis added).

criminal proceeding also has adjudicative power over the denaturalization hearing.[55]

D. Kungys v. United States

In early 1980, the Immigration and Naturalization Service (INS) instituted denaturalization proceedings in the District Court of New Jersey against Jouzas Kungys.[56] Kungys had applied for an immigration visa while living in Germany in 1947, arrived in the United States in 1948 and became a citizen in 1954.[57] He had been residing in America since then.[58] Subsequent to his acquiring citizenship and establishing a life in the United States, the Government became aware that Kungys had lied in the process of obtaining his visa and later his naturalization.[59]

The Government sought Kungys' denaturalization before the Supreme Court on two grounds.[60] First, they argued that he had violated 8 U.S.C. §

55. *Id.* ("Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.").

56. Kungys v. United States, 485 U.S. 759, 764 (1988). "As its principal basis for revocation, the INS initially alleged that Kungys participated in the massacre of 2500 unarmed Jewish civilians…during World War II." Kirsten Aasen, Comment, United States v. Kungys*,* 3 GEO. IMMIGR. L.J. 387 (1989). The depositions on which they relied were held inadmissible so the INS instead claimed that misstatements in his application constituted concealment of material facts. *Id.* at 388-89.

57. *Kungys*, 485 U.S. at 764.

58. At the time of the proceeding he was living in Clifton, N.J. as a retired dental technician. Stuart Taylor Jr., *Justices Question Bid to Denaturalize Man Who Lied on Past*, N.Y. TIMES, Apr. 28, 1987, ht
tp://www.nytimes.com/1987/04/28/us/justices-question-bid-to-denaturalize-man-who-lied-on-past.html.

59. *Kungys*, 485 U.S. at 802 ("These false statements concerned his date and place of birth, his wartime occupations, and his wartime residence: petitioner added two years to his age and misstated the city in which he was born, listed various occupations that he was engaged in from 1942 to 1947 without listing that he was a bookkeeper for several of those years, and swore that he had resided in another city rather than in Kedainiai at the time these atrocities occurred. The District Court found that petitioner had indeed made these misrepresentations, but that they were immaterial under 8 U.S.C. § 1451(a) because the true facts, if known, would not themselves have warranted denial of a visa and would not have led to an investigation.").

60. *Id.* at 764-66. The Government had three asserted grounds at the District Court Level. *See* United States v. Kungys, 571 F. Supp. 1104 (D.N.J. 1983), *rev'd*, 793 F.3d 516 (3d Cir. 1986), *rev'd*, 485 U.S. 759 (1988). The Third Circuit declined to pass on the first asserted ground thus only two grounds were heard by the Supreme Court. *Kungys,* 485 U.S. at 766.

1451(a) because "in applying for his visa and in his naturalization petition, Kungys had made false statements with respect to his date and place of birth, wartime occupations, and wartime residence."[61] Second, the government "argued that Kungys' citizenship had been "illegally procured" under § 1451(a) because when he was naturalized he lacked the good moral character mandated by 8 U.S.C. § 1427(a)."[62] In support of their second argument, the Government asserted that regardless of their materiality, Kungys' false representations sufficiently showed that he had given "false testimony to obtain immigration or naturalization benefits, which § 1101(f)(6)[63] makes determinative of lack of good moral character."[64]

In addressing the first ground for denaturalization asserted by the Government, the Court looked to the INA which provides for the denaturalization of citizens whose naturalizations were "illegally procured or were procured by concealment of a material fact or by willful misrepresentation."[65] The Court developed a standard for materiality under § 1451(a) which required that in order for a misrepresentation to be

61. *Kungys*, 485 U.S. at 764.

62. *Id.* at 765. The statute at the time required that

> [n]o person . . . shall be naturalized unless such petitioner, (1) immediately preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State in which the petitioner filed the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the period referred to in this subsection *has been and still is a person of good moral character*, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

8 U.S.C. § 1427(a) (1988) (emphasis added). The requirements as to good moral character remain unchanged in the current provision. *See* § 1427(a) (2012).

63. "For the purposes of this chapter . . . No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was . . . one who has given false testimony for the purpose of obtaining any benefits under this chapter." 8 U.S.C. § 1101(f)(6) (2012) (date of edition consulted).

64. *Kungys*, 485 U.S. at 765. The opinion goes on to explain that this lack of materiality requirement can be explained by looking to the primary purpose of the statute. *Id.* at 780. Unlike § 1451(a), the purpose of § 1101(f)(6) is not "to prevent false pertinent data from being introduced into the naturalization process" but rather to identify lack of good moral character. *Id.*

65. 8 U.S.C. § 1451(a).

material it must have "had a natural tendency to influence the decision[s of the INS]."[66] In defining this standard, the Court looked to materiality requirements in the criminal context, specifically perjury.[67] The Court looked to Blackstone who determined that in order to be punishable, a false statement "must be in some point material to the question in dispute," not merely "some trifling collateral circumstance, to which no regard is paid."[68] Noting that this was a denaturalization proceeding, the Court supported their application of the criminal conceptualization of materiality in this case stating, "[w]hile we have before us here a statute revoking citizenship rather than imposing criminal fine or imprisonment, neither the evident objective sought to be achieved by the materiality requirement, nor the gravity of the consequences that follow from its being met, is so different as to justify adoption of a different standard."[69]

Regarding the first suggested reason for denaturalization, the Court ultimately held that though Kungys had made false statements as to his date and place of birth in his visa and naturalization applications, the misrepresentations were not material within the meaning of § 1451.[70]

E. United States v. Puerta

United States v. Puerta[71] is a Ninth Circuit decision which relied on the reasoning of the Court in *Kungys* to evaluate whether § 1425(a) required that false statements be material.[72] Antonio Medina Puerta, entered the United States on a student visa in 1981 and was admitted as a permanent resident in 1984.[73] In the process of filling out his paperwork, and again

66. *Kungys*, 485 U.S. at 771.
67. *Id.* at 769-70. The court found that the term "material" was "not a hapax legomenon." *Id.* at 769. The court went on to state "Perjury is a crime committed, when a lawful oath is ministred by any that hath authority, to any person, in any judicial proceeding, who sweareth absolutely, and falsly in a matter material to the issue, or cause in question, by their own act, or by the subornation of others." *Id*. (citing 3 SIR EDWARD COKE, INSTITUTES, INSTITUTES OF THE LAWS OF ENGLAND 164 (6th ed. 1680)).
68. *Id.* (citing 4 WILLIAM BLACKSTONE, COMMENTARIES OF THE LAWS OF ENGLAND 137).
69. *Kungys*, 485 U.S. at 770.
70. *Id.* at 760. In doing so the court rejected the materiality analyses lower courts had used after the Supreme Courts holding in *Chaunt v. United States*. 380 U.S. 350 (1960). *See* Aasen, *supra* note 53, at 389-97.
71. *Puerta*, 982 F.2d 1297 (9th Cir. 1992).
72. *Id*. at 1301-1305.
73. *Id*. at 1298.

when he was interviewed by an INS agent, Puerta said that he had never gone by any other names and that he had not left the U.S. since entering for permanent residence, it was later shown that this was not the case.[74] In fact, Puerta had been utilizing several identities.[75]

Puerta was indicted by a grand jury for unlawful procurement of citizenship under § 1425.[76] After a two-day bench trial, the court convicted Puerta finding that he had testified falsely when questioned by the INS agent.[77] Puerta's certificate of naturalization was voided pursuant to §1451(f), which mandates this step after a conviction under § 1425.[78] The Ninth Circuit faced a question of first impression: whether § 1425(a) required that false statements made to procure naturalization be material in order to be "contrary to law."[79]

The court looked to the materiality requirement under 8 U.S.C. § 1451(a) and then looked to *Kungys,* the leading case on denaturalization.[80] The court read a materiality requirement into criminal denaturalization proceedings under § 1425(a),[81] presenting a standard that would be followed by many district courts subsequently.[82] Ultimately, the court found that the false statements in this case did rise to the level of materiality.

---

74. *Id.* at 1299.

> Question 5 asked him to list '[a]ny other names you have used (including maiden).' Puerta left this space blank. Questions 27 and 28 asked him to list any absences from the United States (for less or more than six months, respectively) since the time he entered for permanent residence. He wrote 'None' in response to both questions.

Id. Several months after his naturalization, Puerta attempted to deposit a check made out to Anthony Port in an account in the name of Anthony Simon. *Id.*

75. *Id.* Proof of these identities included Massachusetts driver's licenses in the names Anthony Simon, Anthony Port and Medina Puerta, Spanish driver's licenses in the names Anthony Port Martin and Antonio Simon Palmer. *Id*.

76. *Id.* at 1299.

77. *Id.*

78. *Id.* at 1299-1300.

79. *Id.* at 1301.

80. *Id.*

81. *Id.*

82. *See supra* note 12 and accompanying text.

F. United States v. Maslenjak

The Sixth Circuit addressed the same issue presented in *Puerta* in *United States v. Maslenjak* (*Maslenjak I*).[83] Divna Maslenjak began her immigration process in Bosnia after the fall of Yugoslavia.[84] Maslenjak stated under oath that both she and her family feared persecution in Bosnia because her husband had not served in the war.[85] The family was granted refugee status in 1999.[86] Maslenjak applied for citizenship in 2006.[87] Later, a series of circumstances led to the revelation that her husband actually had served in the war.[88]

A grand jury indicted Maslenjak with one count of knowingly procuring her naturalization contrary to law in violation of 18 U.S.C. § 1425(a).[89] At trial, a jury found that Maslenjak was guilty of procuring her naturalization contrary to law under § 1425(a).[90] The Sixth Circuit was confronted with the question of whether § 1425(a) contained a materiality requirement.[91] The court found that it did not.[92] Utilizing principles of

---

83. 821 F.3d 675, 680 (6th Cir. 2016), *rev'd*, 137 S. Ct. 1918 (2017).

84. *Id.* at 679. Maslenjak and her family met with "an officer with the United States Immigration and Naturalization Service. . . to seek refugee status based on their fear of persecution in their home region of Bosnia." *Id.*

85. *Id.* at 680.

86. *Id.*

87. *Id.*

88. *Id.* Charges were brought against Maslenjak's husband he was criminally convicted. *Id.* at 681

> Because his criminal conviction made him subject to removal, Ratko Maslenjak was taken into ICE custody on January 13, 2009 asylum hearing. During her testimony Maslenjak admitted that her husband had served in the Republic Srpska military, that they had in fact lived together in Bosnia after 1992, and that she had lied to the immigration officer about these facts during the refugee application interview in 1998.

89. *Id.*

> The indictment alleged that Maslenjak 'made material false statements' on her Form N–400 Application for Naturalization by answering 'no' to the questions about 'knowingly giv[ing] false or misleading information to any U.S. government official while applying for any immigration benefit' and '[lying] to any U.S. government official to gain entry or admission into the United States' and then giving the same false answers during her interview for naturalization.

90. *Id.* "Upon her conviction, the district court sentenced Maslenjak to two years' probation and granted the government's motion to have Maslenjak's naturalization revoked under 8 U.S.C. § 1451(e)." *Id.*

91. *Id.* at 682.

statutory interpretation, the Sixth Circuit looked to the plain language and found that there was no statutory support for a conclusion of materiality.[93] The Sixth Circuit also expressly denied the option of utilizing the reasoning in *Puerta*.[94] They found that *Puerta* and its line of cases overlooked the fact that Congress has "created a two-track system for denaturalization."[95] The court further reasoned that while the extra protection afforded by a materiality standard was needed in the civil context, the procedural safe-guards inherent in the criminal context made a materiality requirement an unnecessary protection.[96]

G. Maslenjak v. United States

In *Maslenjak v. United States* (*Maslenjak II*) the Supreme Court resolved the circuit split existing between the Ninth Circuit's decision in *Puerta* and the Sixth Circuit's decision in *Maslenjak I*.[97] The decision, an appeal from the Sixth Circuit decision arose from the same facts concerning Dvina Maslenjak, the misrepresentation made during her naturalization process, and the Government's efforts to convict and denaturalize her under § 1425(a).[98] The Court looked to what the

92. *Id.*

93. *Id.* "A plain reading of the statute suggests that materiality is not an element of the offense. 'The definition of the elements of a criminal offense is entrusted to the legislature, particularly in the case of federal crimes, which are solely creatures of statute.'" *Id.* (*quoting* Dixon v. United States, 548 U.S. 1, 7 (2006)).

94. *Maslenjak I*, 821 F.3d at 686-87.

95. *Id*. at 683.

> Denaturalization under § 1451(a) is a civil proceeding with its own evidentiary standard and shifting burden of proof; whereas, denaturalization under § 1451(e) is a mandatory ministerial act following a criminal conviction under 18 U.S.C. § 1425(a). There is little justification for reading an implied element of materiality into 18 U.S.C. § 1425 based on the fact that materiality is a required element for civil denaturalization under 8 U.S.C. § 1451(a).

Id.

96. *Id.* at 691-92. "So in a criminal prosecution under § 1425, the Constitution itself cures any concerns about the 'gravity of the consequences' of mandatory denaturalization without requiring proof of materiality." *Id.* at 692 (quoting United States v. Puerta, 982 F.2d 1297, 1301 (9th Cir. 1992)).

97. 137 S. Ct. 1918 (2017).

98. *Maslenjak II*, 137 S. Ct. at 1923.

> Maslenjak explained that the family feared persecution in Bosnia from both sides of the national rift. Muslims, she said, would mistreat them because of their ethnicity. And Serbs,

Government must prove in order to obtain a conviction under § 1425(a).[99] The Court ultimately held that the Government must establish that an illegal act played some role in her acquisition of citizenship.[100] When the illegal act is a false statement, "that means demonstrating that the defendant lied about facts that would have mattered to an immigration official, because they would have justified denying naturalization or would predictably have led to other facts warranting that result."[101]

The Court held that for an individual to be denaturalized, the false statement made must have been one that could have justifiably lead to the denial of naturalization.[102] The statement, in essence, must have been material. In reaching this conclusion the Court looked to the text of the statute.[103] Citing Webster's and Black's Dictionary, the Court noted that "[i]n ordinary usage, "to procure" something is "to get possession of" it."[104] The Court then goes on to explain:

> to "procure ... naturalization" means to obtain naturalization … The adverbial phrase "contrary to law," wedged in between "procure"

> she testified, would abuse them because her husband had evaded service in the Bosnian Serb Army by absconding to Serbia—where he remained hidden…Six years later, Maslenjak applied for naturalization. Question 23 on the application form asked whether she had ever given 'false or misleading information' to a government official while applying for an immigration benefit…whether she had ever 'lied to a [ ] government official to gain entry or admission to the United States.'.... Maslenjak answered 'no' … But Maslenjak's professions of honesty were false.

Id.; *see supra* notes 83-90 and accompanying text.

99. Maslenjak v. United States, 137 S. Ct. 1918, 1923 (2017).

100. *Id.* at 1923-25.

> The most natural understanding is that the illegal act must have somehow contributed to the obtaining of citizenship. Consider if someone said to you: "John obtained that painting illegally." You might imagine that he stole it off the walls of a museum. Or that he paid for it with a forged check. Or that he impersonated the true buyer when the auction house delivered it. But in all events, you would imagine illegal acts in some kind of means-end relation—or otherwise said, in some kind of causal relation—to the painting's acquisition. If someone said to you, "John obtained that painting illegally, but his unlawful acts did not play any role in his obtaining it," you would not have a clue what the statement meant. You would think it nonsense—or perhaps the opening of a riddle.

101. *Id.* at 1923.

102. *Id.*

103. *Id.* at 1924.

104. *Id.*

> and "naturalization," then specifies how a person must procure naturalization so as to run afoul of the statute: in contravention of the law—or, in a word, illegally. Putting the pieces together, someone "procure[s], contrary to law, naturalization" when she obtains citizenship illegally.[105]

The illegality must play a role in the acquisition of citizenship.[106] The Court rejected the view that the statute merely requires that a violation of law occur in the course of procuring naturalization as "falter[ing] on the way language naturally works."[107] There must be a causal, not a coincidental, connection between the violation of law and the obtained citizenship.[108] The effect of allowing coincidental connections would be to "[open] the door to a world of disquieting consequences."[109]

II. STATUTORY INTERPRETATION: UNDERSTANDING THE CIRCUIT SPLIT

The Supreme Court has found that the first step in finding the meaning of a statute is looking at the language.[110] The preliminary inquiry is into the plainness of language, if the language is plain, it should be enforced as

---

105. *Id.* at 1924-25.

106. *Id.* ("To get citizenship unlawfully, we understand, is to get it through an unlawful means—and that is just to say that an illegality played some role in its acquisition.").

107. *Id.*

108. *Id.* at 1926.

> Suppose that an applicant for citizenship fills out the necessary paperwork in a government office with a knife tucked away in her handbag (but never mentioned or used). She has violated the law—specifically, a statute criminalizing the possession of a weapon in a federal building. See 18 U.S.C. § 930. And she has surely done so 'in the course of' procuring citizenship. But would you say, using English as you ordinarily would, that she has "procure[d]" her citizenship 'contrary to law' (or, as you would really speak, "illegally")? Once again, no. That is because the violation of law and the acquisition of citizenship are in that example merely coincidental: The one has no causal relation to the other.

109. *Id.* at 1927.

> But under the Government's reading of § 1425(a), a lie told in the naturalization process—even out of embarrassment, fear, or a desire for privacy—would always provide a basis for rescinding citizenship. The Government could thus take away on one day what it was required to give the day before.

110. Caminetti v. United States, 242 U.S. 470, 485 (1917).

is.[111] However, if such enforcement would lead to an absurd result, courts should look beyond the plain language.[112]

The Supreme Court applied this rule in the context of false statements in *United States v. Wells*.[113] In determining whether 18 U.S.C. § 1014 contained a materiality requirement, [114] the Court first looked to the text.[115] Section 1014 "criminalizes 'knowingly mak[ing] any false statement or report . . . for the purpose of influencing in any way the action' of a Federal Deposit Insurance Corporation (FDIC) insured bank." [116] The Court cited *Kungys* for the premise that "the term 'false statement' carries no general suggestion of influential significance."[117] The Court also examined the common law meaning of the statutory language and found that the respondents failed to show that "false statement" carries with it a meaning acquired under common law that would require reading in materiality.[118] After *Wells*, an analysis of plain meaning requires two steps: first, look to the natural reading[119] and then look to whether any words carry a meaning from the common law.[120]

In *Puerta*, the Ninth Circuit finds rather summarily that 18 U.S.C. §

---

111. *Id.* ("[T]he meaning of the statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, . . . the sole function of the courts is to enforce it according to its terms.").

112. 2A NORMAN SINGER & SHAMBIE SINGER, SUTHERLAND STATUTORY CONSTRUCTION § 46:1 (7th ed. 2007).

> A court may look beyond the plain language of a statute when: applying the language according to its plain meaning would lead to an absurd result, or there is 'obvious' or 'clear' evidence of contrary legislative intent; it finds 'a specific indication to the contrary;' it finds 'compelling reasons to hold otherwise;' some other section of an act expands or restricts its meaning, or a particular provision is repugnant to an act's general purview, or other acts *in pari materia*, or the relevant legislative history, imports a different meaning.

Id. (internal citations omitted).

113. 519 U.S. 482 (1997).

114. 18 U.S.C. § 1014 (2012).

115. *Wells*, 519 U.S. at 490.

116. *Id.* (quoting 18 U.S.C. § 1014).

117. *Id.*

118. *Id.* at 491.

119. *Id.* at 483, 492. ("[s]tatutory history confirms the natural reading.").

120. *Id*. at 491. ("We do, of course, presume that Congress incorporates the common-law meaning of the terms it uses..."); *See, e.g.*, Neder v. United States, 527 U.S. 1, 20-22 (1999) (applying the *Wells* framework to 18 U.S.C. § 1343 and finding that the word "fraud" contains a meaning at common law which connotes materiality and as such, there is a materiality requirement in this provision.).

1425(a) has a materiality requirement.[121] The court simply states that support for the position is found in *Kungys* and then moves on to apply the materiality standard *Kungys* outlines.[122] While the court acknowledges it is addressing a different statute,[123] it fails to provide an independent rationale for why the Supreme Court decision regarding one statute, 8 U.S.C. § 1451(a), should necessarily govern the distinct statute in question, 18 U.S.C. § 1425(a).

Looking to the analysis of 8 U.S.C. § 1451(a) in *Kungys* does not fully resolve why we should read in a materiality standard. Because § 1451(a) expressly contains the word material,[124] the Supreme Court focused on interpreting, clarifying and applying a materiality standard rather than determining whether one should be included as a preliminary matter.[125] The questions of law, approaches to answering said questions, and the statutes themselves are unique; it does not follow that the *Kungys* decision should govern the 8 U.S.C. § 1451(a) materiality question. One justifiable reason for relying on *Kungys* is that the statutes, while different, address the same issue, denaturalization.[126]

The overreliance of the Ninth Circuit on *Kungys* is of particular concern in light of the rules of statutory construction. The Ninth Circuit fails to analyze § 1425(a) of its own accord.[127] In doing so the Ninth Circuit

---

121. *Puerta*, 982 F.2d at 1301.

> No reported cases discuss whether § 1425(a) requires that false statements made to procure naturalization be material in order to be "contrary to law." We note, however, that 8 U.S.C. § 1451(a) permits denaturalization if citizenship was "procured by concealment of a *material* fact or by willful misrepresentation" (emphasis added). Further, the government agrees with Puerta that § 1425(a) implies a materiality requirement similar to the one used in the denaturalization context. This position finds support in *Kungys* . . ..

Id.

122. *Id.*

123. *Id.*

124. 8 U.S.C. § 1451(a) (1995) (allowing for denaturalization if citizenship is "procured by concealment of a material fact or by willful misrepresentation.").

125. *Kungys*, 485 U.S. at 769-71.

126. Given that *Kungys* was and still is considered "the leading denaturalization case" it makes sense for the Ninth Circuit to rely on the *Kungys* decision. *Puerta*, 982 F.2d at 1301.

127. The Sixth Circuit in *Maslenjak I* criticizes the Ninth Circuit's *Puerta* decision on several bases. Maslenjak v. United States, 821 F.3d 675, 686-93 (6th Cir. 2016), *rev'd*, 137 S. Ct. 1918 (2017). The Sixth Circuit expresses particular concern over the failure of the Ninth circuit to apply the rules of statutory construction. *Id.* at 689.

ignores the fact that there are two denaturalization statutes; "Congress has created a two-track system for denaturalization."[128] While each statute covers denaturalization, the statutes are unique and should be analyzed as such.

The rules of statutory construction make clear that a court should first look to the plain language. The Sixth Circuit remedied a major flaw in the Ninth Circuit approach by looking to the plain language.[129] The Court finds that there is no materiality requirement.[130] At a basic level of interpretation, this rings true. The word material does not appear in the text of § 1425(a).[131]

Nevertheless, the Sixth Circuit's consideration of a "natural reading" of the plain language is lacking. The court does not address whether any of the terms in the statute carry with them a materiality standard from the common law.[132] The court does address alternative reasons for reading in a materiality requirement before dismissing them.[133] The court concludes that the procedural safe-guards inherent in the criminal context make a materiality requirement an unnecessary protection.[134] This conclusion however, seems to downplay the severity of denaturalization as a punishment and overemphasize the protections of criminal courts. The court addresses the severity of denaturalization as a matter of equity stating,

the only compelling reason left to adopt the Ninth Circuit's approach to materiality in *Puerta* is the equity of mandatory denaturalization on anything less than proof of a materially false statement. . . denaturalization is a "unique" and "severe" sanction amounting to "banishment," and so the same evidentiary standard should apply whether the government seeks denaturalization in a civil proceeding or a criminal proceeding.[135]

---

128. *Maslenjak I*, 821 F.3d at 680.
129. *Id.* at 690.
130. *Id.* at 682. "A plain reading of the statute suggests that materiality is not an element of the offense."
131. 18 U.S.C. § 1425(a) (2012).
132. *See supra* notes 92-96 and accompanying text.
133. *Maslenjak I*, 821 F.3d at 685-93.
134. *Id.* at 691-92. "So in a criminal prosecution under § 1425, the Constitution itself cures any concerns about the 'gravity of the consequences' of mandatory denaturalization without requiring proof of materiality." *Id.* at 692. (quoting *Puerta*, 982 F.2d at 1301).
135. *Maslenjak I*, 821 F.3d at 691.

The court describes this reason as "compelling" but proceeds to dismiss it looking instead to only the plain language.[136] This dismissal can be seen as a weakness in the Sixth Circuit approach. While the plain language is the start of statutory interpretation, it is not the final step.[137] The Sixth Circuit overly relies on the plain language and summarily dismisses other "compelling" rationales for reading in a materiality requirement.

In resolving the split, the Supreme Court starts with the text of the statute.[138] But unlike the Sixth Circuit which found the absence of the word "material" meant no materiality standard, the Court looks to both ordinary usage and a natural understanding.[139] This approach is consistent the standard articulated in *Wells*, which requires one look to a natural reading.[140] Statutory interpretation allows for the application of multiple approaches in order to assess meaning.

The Supreme Court states a reliance on the text and language of the statute in reading in a causal relationship.[141] However, in determining what constituted a natural understanding, the Court looks to the purpose and effect of § 1425(a). The Court looks to the effect of allowing non-causal illegal actions to lead to denaturalization.[142] There are reasons both malicious and non-malicious for a person to lie. These lies can be both relevant and irrelevant to the naturalization process. Allowing someone to lose citizenship because they lied out of embarrassment, fear, or a desire for privacy especially when that lie would have no impact on their acquisition of citizenship is inconsistent with the purpose of § 1425(a).[143] Further such an interpretation produces unsettling effects for those who face denaturalization as a result of prosecution under the statute. [144]

---

136. *Id.* "Whatever appeal this rationale might have, the argument invites us to overlook the plain text of 18 U.S.C. § 1425(a) and disregard the overall statutory scheme Congress has enacted for denaturalization under the INA." *Id.*

137. *See supra* note 112 and accompanying text.

138. Maslenjak v. United States, 137 S. Ct. 1918, 1924 (2017) ("We begin, as usual, with the statutory text.").

139. *Id.*

140. *See supra* note 119 and accompanying text.

141. Maslenjak v. United States, 137 S. Ct. 1918, 1924-26 (2017).

142. *Id.* at 1926-27.

143. *See supra* notes 108-109 and accompanying text.

144. *See supra* text note 108 and accompanying text.

III. PROPOSAL: THE IMPACT OF PURPOSE ON MEANING

Citizenship has value and the right to acquire it is precious.[145] As citizenship possesses such value, it follows that the processes by which we strip people of it much be treated as equally dear and evaluated with the utmost inquiry. Recognizing the need for such evaluation, the Supreme Court's addressed the question of what § 1425(a) requires.[146]

As outlined above, neither the Sixth Circuit nor the Ninth Circuit approach completely elucidates whether a materiality requirement should be read into 18 U.S.C. § 1425(a). In looking to answer this question it is necessary to look beyond *Kungys*'s § 1451(a) analysis and strict plain language interpretation. The Supreme Court resolves the inquiry by looking to a natural reading of the text of the statute. The ultimate conclusion is that procuring citizenship contrary to law must mean that the illegality was causal or material to the procurement.[147]

It is this approach which looked beyond the text to what the text would mean Congress intended the effect would be which created a broader base from which the Court determined that § 1425(a) should have a materiality requirement and which can be helpful in future interpretation. [148]

Looking to purpose, section 1425(a) occupies a nexus: it is a criminal provision located within the federal criminal code, but it is also denaturalization provision. As such it carries with it two lines of jurisprudence and double the import of repercussions faced by those who are found in violation of it.[149] The original goals of the INA included decreasing fraud and creating consistency.[150] Concerns over consistency and accuracy in the naturalization purpose are still relevant today.

Looking to effect, citizenship has value. As such, the Government

145. *See supra* note 28 and accompanying text.
146. Order Granting Certiorari, 16-309 Maslenjak v. United States (2017).
147. *See* discussion *supra* Part II Section H.
148. As the court recognized, "by so unmooring the revocation of citizenship from its award, the Government opens the door to a world of disquieting consequences—which this Court would need far stronger textual support to believe Congress intended. The statute Congress passed, most naturally read, strips a person of citizenship not when she committed any illegal act during the naturalization process, but only when that act played some role in her naturalization." Maslenjak v. United States, 137 S. Ct. 1918, 1921 (2017).
149. *See supra* text accompanying notes 48-55.
150. *See supra* notes 30-36 and accompanying text.

"carries a heavy burden of proof in a proceeding to divest a naturalized citizen of his citizenship"; the loss of American citizenship can have "severe and unsettling consequences."[151] Statutory interpretation tells us that when the plain language leads to absurd results we should look beyond it. The Sixth Circuit in relying solely on the plain language, allowed for a regime under which a naturalized citizen could be denaturalized for having misrepresented their favorite color, or how pleasant their car ride to a meeting with the naturalization officer was. While these are extreme examples, taking away someone's citizenship for either of these reasons would have been both consistent with the Sixth Circuit interpretation and absurd. Some scholars suggest that denaturalization is not a punishment but rather a resetting to the appropriate state in light of a flaw in the naturalization process.[152] This reasoning makes sense if the flaw is material, but if it is not, it is hard to argue that stripping someone of citizenship is not a punishment, let alone that it is a punishment fitting the 'crime.'

Looking to purpose and effect elucidates the natural reading of the text of the statute beyond the plain language and beyond the jurisprudence of prior courts. Given the importance of citizenship and the severity of denaturalization these added steps provided greater clarity in evaluating whether § 1425(a) contains a materiality requirement.

CONCLUSION

For the foregoing doctrinal and policy reasons the rationales applied in both the Ninth Circuit and Sixth Circuit cases are meritorious but also lacking. The Ninth Circuit in *Puerta*, identifies *Kungys* as the leading denaturalization case, but its failure to clarify its own rationale for using the standard governing one statute to evaluate another leaves it open to critique. The Sixth Circuit in *Maslenjak I*, clearly articulates its rationale for using the plain language approach to statutory interpretation but fails to fully consider the possible outcomes of such a reading. This note suggests

151. Fedorenko v. United States, 449 U.S. 490, 505 (1981).

152. *Developments in the Law Immigration and Nationality*, 66 HARV. L. REV. 643, 717 (1953) ("In theory a denaturalization judgment does not involve a penalty because the defendant is merely deprived of wrongfully procured citizenship and in law was never a citizen at all.").

that while relying on *Kungys* alone is insufficient, it is equally inadequate to rely heavily on the plain language. Instead the Supreme Court's approach of determining natural understanding by looking to the purpose and effect of 18 U.S.C. § 1425(a) the best resolution and framework for future cases.

The earliest calls for federal immigration laws asked for consistency in process to address concerns of fraud and fairness.[153] The Supreme Court in resolving the circuit split once more created consistency in the realm of immigration.

153. *See* discussion *supra* Section II.B.