IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:25cv23617

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	**OPPOSITION TO DEFENDANT'S**
vs.	)	**MOTION TO DISMISS**
	)	**PLAINTIFF'S COMPLAINT**
HENRY BRICENO,	)	
	)	
Defendant.	)	
	)	

In July 2008, Defendant Henry Briceno ("Mr. Briceno") broke the law by agreeing to commit health care fraud. But when Mr. Briceno filed his naturalization application more than a year later in October 2009, and when U.S. Citizenship and Immigration Services ("USCIS") interviewed him about his application in January 2010, he claimed he had never committed a crime for which he had not been arrested. Only after becoming a U.S. citizen did he admit to conspiring to commit health care fraud, in violation of 18 U.S.C. § 1349. Mr. Briceno's crime and his lies about it made him ineligible for naturalization. He thus procured his citizenship unlawfully and by concealment of a material fact or by willful misrepresentation. The Court must now, therefore, revoke his naturalization.

In his Motion to Dismiss, Mr. Briceno claims that he did not realize until after he naturalized that his agreement to commit health care fraud would involve illegal activity. But he does not dispute that he made that agreement prior to his naturalization. As a matter of law, when he made his agreement, he did so with the intention of committing the crime of health care fraud. That criminal intent was central to his guilty plea and conviction. He is, therefore, now estopped from denying that he committed that crime prior to becoming a citizen.

Mr. Briceno also claims that his crime of conspiracy to commit health care fraud does not require his denaturalization because it is not a crime involving moral turpitude ("CIMT"). But every part of that crime—to which he pleaded guilty—involves fraudulent intent. It is, thus, categorically a CIMT.

Finally, the Court should reject Mr. Briceno's misplaced reliance on the doctrine of laches. That equitable defense has no place in denaturalization actions, and even if it did, Mr. Briceno has not met his burden of showing that it should apply here.

Accordingly, this Court should deny Mr. Briceno's motion to dismiss.

RELEVANT FACTS

I. Mr. Briceno's immigration history

On approximately January 4, 2005, USCIS granted Mr. Briceno conditional permanent resident status based on his marriage to a U.S. citizen.[1] Compl. ¶ 31, ECF No. 1. On February 2, 2009, Mr. Briceno sought to remove the conditions on his permanent resident status by filing a Form I-751, Petition to Remove Conditions on Residence ("Form I-751") with U.S. Citizenship and Immigration Services ("USCIS"). *Id.* ¶ 32 & Ex. F. On his Form I-751, Mr. Briceno checked "No" in response to Part 3, Question 7, which asked, "Have you ever been arrested, detained, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance (excluding traffic regulations), or committed any crime for which you were not arrested in the United States or abroad?" *Id.* ¶ 33 & Ex. F at 3.[2]

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[1] The facts set forth herein are taken from the Complaint in this action. As discussed below in Argument § I, when deciding this Motion to Dismiss, the Court must accept as true the facts alleged in the Complaint and contained in the exhibits to the Complaint. *See Solis-Ramirez v. U.S. Dep't of Just.*, 758 F.2d 1426, 1429 (11th Cir. 1985).

[2] Consistent with Mr. Briceno's citation to the Complaint exhibits, page numbers for exhibits provided herein do not count the exhibit spacer page placed at the start of each exhibit.

On approximately October 28, 2009, Mr. Briceno filed a Form N-400, Application for Naturalization ("Naturalization Application") with USCIS. *Id.* ¶ 37 & Ex. G. On his Naturalization Application, Mr. Briceno checked "No" in response to the following questions: Part 10, Question 15: "Have you **ever** committed a crime or offense for which you were **not** arrested?" and Part 10, Question 23: "Have you **ever** given false or misleading information to any U.S. Government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal?" *Id.* ¶¶ 39-40 & Ex. G at 9 (emphases in original). On October 20, 2009, Mr. Briceno signed his Naturalization Application under penalty of perjury, certifying that his answers to the questions therein were true and correct. *Id.* ¶ 41 & Ex. G at 11.

On January 19, 2010, a USCIS officer interviewed Mr. Briceno under oath to determine his eligibility for naturalization. *Id.* ¶ 42. During the interview, Mr. Briceno testified orally and under oath that he had not ever committed a crime or offense for which he was not arrested, consistent with his written answer to Part 10, Question 15 of his Naturalization Application. *Id.* ¶¶ 43-45. He also testified orally and under oath that he had not ever given false or misleading information to any U.S. Government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal, consistent with his written answer to Part 10, Question 23 of his Naturalization Application. *Id.* ¶¶ 43, 48-49. At the end of the interview, Mr. Briceno again signed his Naturalization Application under penalty of perjury and swore that the contents of his application were true and correct to the best of his knowledge. *Id.* ¶ 55. On January 29, 2010, Mr. Briceno took the Oath of Allegiance to become a U.S. citizen. He was issued Certificate of Naturalization No. [redacted]. *Id.* ¶ 57 & Ex. H.

II. Mr. Briceno's criminal history

On November 12, 2011, Mr. Briceno was charged by a Second Superseding Indictment ("Indictment") with, among other crimes, conspiracy to commit health care fraud, in violation of

18 U.S.C. § 1349. Compl. ¶ 20 & Ex. B. On March 14, 2012, Mr. Briceno signed a Rule 11 Plea Agreement ("Plea Agreement") in which he admitted that "Beginning in or around July 2008, and continuing through approximately January 2010, Defendant, Henry Briceno, willfully conspired with others to commit health care fraud, in violation of 18 U.S.C. § 1349." *Id.* ¶ 21, 25 & Ex. C at 2. In his Plea Agreement, Mr. Briceno agreed that the elements of the crime of Conspiracy to Commit Health Care Fraud consist of the following:

> First: That two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common or unlawful plan, as charged in the Indictment, and;
> Second: That the defendant, knowing the unlawful purpose of the plan, willfully joined in it.

Id. ¶ 22 & Ex. C at 2.

Mr. Briceno's co-conspirators included his sister, Marieva Briceno ("Ms. Briceno"). *Id.* Ex. B at ¶ 23. On March 14, 2012, Ms. Briceno pleaded guilty to conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349. *See* Judgment in a Criminal Case, *United States v Briceno*, No. 11-cr-20076-02 (E.D. Mich. July 6, 2012). On November 17, 2025, a court ordered Ms. Briceno's denaturalization. *See* Joint Mot. for Entry of Consent Judgment Revoking Naturalization, *United States v. Briceno*, No. 1:25-cv-23616 (S.D. Fla. Nov. 13, 2025) (attached hereto as Exhibit 1); Consent Judgment Revoking Naturalization, *United States v. Briceno*, No. 1:25-cv-23616 (S.D. Fla. Nov. 17, 2025) (attached hereto as Exhibit 2). Plaintiff asks the Court to take judicial notice of these pleadings filed in Ms. Briceno's matters, which Plaintiff presents as "judicial acts." *See United States v. Jones*, 29 F.3d 1549, 1553–54 (11th Cir. 1994).

On March 14, 2012, Mr. Briceno pleaded guilty to and was convicted of one count of conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349. *Id.* ¶ 27 & Ex. D. On August 28, 2012, the court in Mr. Briceno's criminal case entered a Judgment against him ("Judgment"). *Id.* ¶ 28. The Judgment found that Mr. Briceno's offense of conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349, ended in October 2009, which is several months before he naturalized in January 2010. *Id.* ¶ 28, 57 & Exs. E, H.

III. Procedural History

On August 12, 2025, Plaintiff filed the Complaint, alleging four causes of action. ECF No. 1. Count I alleges that during the statutory period prior to Mr. Briceno's naturalization, when he was required to establish good moral character, he committed a CIMT and subsequently pleaded guilty to and was convicted of conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349. Compl. ¶¶ 28, 59, 76-77. Count I alleges that 8 U.S.C. § 1101(f)(3) thus barred Mr. Briceno from establishing the requisite good moral character for naturalization under 8 U.S.C. § 1427(a)(3). *Id.* ¶¶ 78-80.

Count II alleges that during his statutory period, Mr. Briceno committed the unlawful act of conspiracy to commit health care fraud that reflected adversely on his moral character, and that no extenuating circumstances mitigated his guilt for those acts. *Id.* ¶¶ 82-88. Count II alleges that 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10(b)(3)(iii) thus barred Mr. Briceno from establishing the requisite good moral character for naturalization. *Id.* ¶¶ 78-92.

Count III alleges that during his statutory period, Mr. Briceno gave false testimony, for the purpose of obtaining naturalization, about his criminal history and about previous false statements he had made in his I-751 about his criminal history. *Id.* ¶¶ 33-36, 94-98. Count III alleges that 8 U.S.C. § 1101(f)(6) thus barred Mr. Briceno from establishing the requisite good moral character for naturalization. *Id.* ¶¶ 99-101.

Count IV, finally, alleges that during his statutory period, Mr. Briceno procured his U.S. citizenship by concealment of material facts or willful misrepresentations when he stated in his Naturalization Application and at his naturalization interview that he had never committed a crime for which he had not been arrested and had never given false and misleading information to obtain an immigration benefit, even though he had concealed his criminal history in his I-751. *Id.* ¶¶ 33-36, 104-111.

Judgment for Plaintiff on any single count of the Complaint results in Mr. Briceno's denaturalization. On December 1, 2025, Mr. Briceno filed his Motion seeking to dismiss all four counts of the Complaint. ECF No. 11.

ARGUMENT

I. Legal standards for motions to dismiss

Dismissal pursuant to a Rule 12(b)(6) motion is warranted "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations of the complaint." *Shands Teaching Hosp. & Clinics, Inc. v. Beech St. Corp.*, 208 F.3d 1308, 1310 (11th Cir. 2000). When ruling on motions to dismiss, courts must accept the facts alleged in the complaint and contained in the exhibits to the complaint as true. *See Solis-Ramirez*, 758 F.2d at 1429.[3] A complaint will thus survive Rule 12(b)(6) dismissal so long as it contains sufficient facts to state a claim for relief that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Plaintiffs make a facially plausible claim when they plead factual content from which the court can reasonably infer that defendants are liable for the misconduct alleged. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp.*, 550 U.S. at 556). "The plausibility standard is not akin to a 'probability requirement' but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Id.*

[3] Mr. Briceno cites the transcript of his own sentencing hearing to discuss his role in the conspiracy to commit health care fraud. Mem. at 3, 9. The Court should not consider those claims because they do not arise from the four corners of the Complaint but from a document not attached to or referenced in the Complaint that Mr. Briceno cites for the truth of the statements they contain. *See Jones*, 29 F.3d at 1553–54; *Bryant v. Avado Brands, Inc.*, 187 F.3d 1271, 1278 (11th Cir. 1999); *Moreno v. Carnival Corp.*, 488 F. Supp. 3d 1233, 1236 (S.D. Fla. 2020).

II. Plaintiff has plausibly alleged that Mr. Briceno knowingly agreed to commit a crime before he became a U.S. citizen, rendering him ineligible to naturalize

The Complaint and several of its exhibits plausibly allege—indeed, they establish by clear, convincing, and unequivocal evidence—that prior to Mr. Briceno's naturalization, he agreed and conspired to commit the crime of health care fraud, in violation of 18 U.S.C. § 1349. The Indictment alleged that the conspiracy to commit health care fraud that Mr. Briceno joined had begun "in or around May 2007" and eventually involved ten co-conspirators. Compl. Ex. B at ¶ 23. In his Plea Agreement, Mr. Briceno gave the date when he joined that illegal conspiracy: "Beginning in or around July 2008," Mr. Briceno "willfully conspired with others to commit health care fraud, in violation of 18 U.S.C. § 1347." *Id.* Ex. C at 2. This description corresponds to the allegation in the Indictment that Mr. Briceno incorporated Manuel MC, LLC, one of the clinics involved in the conspiracy, on July 15, 2008. *Id.* Ex. B at ¶ 26. Because the overall conspiracy was formed in May 2007 but Mr. Briceno did not join it until July 2008, the month he incorporated the Manuel clinic, the Indictment properly included him in the conspiracy from the date the scheme was concocted. *See United States v. Jones*, 480 F.2d 954, 958 (5th Cir. 1973) (late joiners in ongoing drug smuggling scheme were properly convicted under indictment charging single conspiracy from date scheme was concocted). As such, there is no inconsistency or implausibility, as he now claims, to the allegations in the Complaint that Mr. Briceno's involvement in the conspiracy began before he naturalized. Mem. at 7.

Mr. Briceno also admitted in his Plea Agreement that he "willfully joined" that conspiracy "knowing the unlawful purpose of the plan" to commit health care fraud. Compl. Ex. C at 2. Specifically, his Plea Agreement states, "*From the outset*, the Defendant was aware that this clinic[, Manuel MC, LLC,] was *established for the sole purpose of defrauding Medicare*." *Id.* at 3 (emphases added). He now claims "from the outset" is too vague to establish when he learned of and agreed to the conspiracy's criminal aims. Mem. at 8. But courts must give the words of a plea agreement their "ordinary and plain meaning," *Aviles v. Charles Schwab & Co.*, No. 09-80794-CIV, 2009 WL 10625057, at *2 (S.D. Fla. July 23, 2009), as they would any contract, *United States v. Hunter*, 835 F.3d 1320, 1330 (11th Cir. 2016). The ordinary and plain meaning of "[f]rom the outset," is from the "beginning, start." *See* "Outset," *Merriam-Webster.com Dictionary*, https://www.merriam-webster.com/dictionary/outset (last accessed Dec. 9, 2025). The Plea Agreement thus establishes that, from the start of Mr. Briceno's conspiracy in July 2008, he knew of and agreed to its illegal purpose. Compl. Ex. C at 2. The Judgment entered in his case further establishes that Mr. Briceno knowingly committed a crime before he became a U.S. citizen by noting that his conspiracy to commit health care fraud *ended* in October 2009, three months *before* he naturalized. *Id.* ¶ 57 & Ex. E. The Complaint and the exhibits attached to it thus plausibly allege that prior to his naturalization, Mr. Briceno knew that he was agreeing to take part in a scheme to break the law.

Despite all this, Mr. Briceno attempts now to refute his plea language and claim that he did not realize that he had agreed to participate in an enterprise with an illegal aim. *See, e.g.*, Mem at 1 (claiming that Mr. Briceno "learned—after becoming a U.S. citizen and after he stopped his involvement in the clinic—that the clinic he helped his sister operate was involved in criminal activity involving Medicare fraud."). The doctrine of collateral estoppel bars his attempt. Collateral estoppel "forecloses relitigation of an issue of fact or law that has been litigated and decided in a prior suit." *Islam v. Sec'y, Dep't of Homeland Sec.*, 997 F.3d 1333, 1341 (11th Cir. 2021) (internal quotation marks omitted). Collateral estoppel is available when four conditions are met: (1) the relevant issue must be identical to the issue involved in the prior proceeding, (2) the issue must have been actually litigated in the prior proceeding, (3) the issue's determination must have been a critical and necessary part of the prior proceeding, and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the prior proceeding. *Id.* For the third condition, the only one at issue here, a "determination ranks as necessary ... when the final outcome hinges on it." *Bobby v. Bies*, 556 U.S. 825, 835 (2009).

Collateral estoppel applies here because the elements of conspiracy are a "critical and necessary part" of his guilty plea and conviction. As noted above, Mr. Briceno admitted in his Plea Agreement to joining a criminal conspiracy in July 2008. Compl. Ex. C at 2. A guilty plea is an "admission of all the elements of a formal criminal charge." *McCarthy v. United States*, 394 U.S. 459, 466 (1969). And as Mr. Briceno admitted in his Plea Agreement, an element of the crime of conspiracy to commit health care fraud involves "the defendant[] *knowing the unlawful purpose of the plan*" and willfully joining in it. Compl. Ex. C at 2 (emphasis added). By pleading guilty to participating in a criminal conspiracy to commit health care fraud, Mr. Briceno admitted to agreeing "from the outset" to its illegal purposes. *See United States v. Ifediba*, 46 F.4th 1225, 1243–44 (11th Cir. 2022) ("The elements of a healthcare fraud conspiracy, *see* 18 U.S.C. § 1349, are the existence of an agreement to commit health care fraud in violation of § 1347, the defendant's knowledge of that agreement, and the defendant's knowing and voluntary joinder in that agreement."); *United States v. Richardson*, 532 F.3d 1279, 1284 (11th Cir. 2008) (for conspiracy, "all that the government must prove is an agreement or common purpose *to violate the law* and intentional joining in this goal by coconspirators") (emphasis added) (citation and internal marks omitted); *United States v. Abovyan*, 988 F.3d 1288, 1306–07 (11th Cir. 2021) (affirming jury instructions for § 1349 charge that required a finding that defendant "'agreed to try to accomplish a common and unlawful plan to commit health care fraud, as charged in the superseding indictment' and that, *knowing 'the unlawful purpose of the plan,'* he 'willfully joined in it.'") (emphasis added), *overruled on other grounds by, Ruan v. United States*, 597 U.S. 450 (2022). Mr. Briceno is thus now estopped from denying that essential element of his conviction. *See United States v. Dor*, No. 16-17191-E, 2017 WL 11538010, at *4 (11th Cir. May 17, 2017) (affirming denaturalization where defendant was estopped from denying conspiracy because the issue of whether he participated in the conspiracy was actually litigated in the criminal case).

Notably, Mr. Briceno does not deny the allegation, established by his Indictment, Plea Agreement, and Judgment, that he joined a conspiracy prior to his naturalization. Compl. ¶¶ 75-76 & Ex. B at ¶ 23, Ex. C. at 2, Ex. E. Indeed, he admits that he "assisted with Manuel Clinic between 2008 and 2009." Mem. at 9. He denies only that he knew the unlawful purpose of the scheme when he agreed to it. Mem. at 1. But as established above, such knowledge at the moment of joining is an element of the crime of conspiracy. *See Ifediba*, 46 F.4th at 1243–44; *Richardson*, 532 F.3d at 1284; *Abovyan*, 988 F.3d at 1306–07. Mr. Briceno thus differs from the defendant in *United States v. Munoz*, 112 F.4th 923 (11th Cir. 2024), who challenged only the date when he joined his conspiracy. There, the Eleventh Circuit found that, because the start date of the conspiracy alleged in the indictment was not a critical and necessary part of his guilty plea, defendant could not be estopped from denying the dates when he committed the crime. *Id.* at 933. But because the *elements* of Mr. Briceno's crime are necessary and critical to his guilty plea, he is estopped from denying them now. *Id.*

The nature of Mr. Briceno's denial make collateral estoppel particularly applicable here. In claiming that he did not know the illegal purpose of his conspiracy, he purports to rely on the statements he and his attorney made at his plea hearing. Mem. at 2, 3, 7, 9, 18, 19 (citing Compl.

Ex. D at 5:12-15, 5:13-17, 9:11-13). But "the collateral consequences of a guilty plea may not be avoided by the simultaneous assertion of innocence." *Blohm v. Comm'r*, 994 F.2d 1542, 1554 (11th Cir. 1993). Were this not so, defendants pleading guilty would routinely proclaim their innocence to reap two benefits: the avoidance of a trial and a possible reduction in sentence through a guilty plea, and the extinguishment of all collateral consequences of their plea through their professions of innocence. *Id.* To avoid that unjust result, sentencing courts routinely reject the self-serving attempts by allocuting defendants to minimize their guilt. *See United States v. Brown*, 509 F. App'x 936, 940 (11th Cir. 2013) (holding that a court is "within its discretion" in refusing a request for a downward variance at sentencing where defendant "minimizes her role in the conspiracy and ... her culpability"); *United States v. Capri*, No. 03 CR 300-1, 2005 WL 1916720, at *5 (N.D. Ill. July 5, 2005) (rejecting defendant's attempts at sentencing allocution to minimize her level of responsibility where her "actions speak far louder than her words"). Mr. Briceno's sentencing court rejected his claims when it entered a judgment against him that noted his crime *ended* in October 2009, three months before he naturalized. Compl. Ex. E. The Court should similarly reject Mr. Briceno's unsupported and impermissible refutation.

Even if this Court could consider Mr. Briceno's statements at his plea hearing, they would not constitute an actual profession of innocence. Mr. Briceno argues that at his plea hearing, he "proffered that 'he became aware of the illegality after he became a naturalized citizen'," Mem. at 3, 18, 19 (quoting Compl. Ex. D at 9:11-13), but his discussion did not involve the illegal purpose of his conspiracy but an overt act by a co-conspirator:

> MR. WEISS: There came a point in time when you found out that your family member was paying patients to come to the clinic?
> MR. BRICENO: Yes.
> MR. WEISS: And you still allowed your name --
> MR. BRICENO: Yes.

> MR. WEISS: -- to be utilized to operate the clinic?
> MR. BRICENO: Yes.
> MR. WEISS: And you found out about this after you became a United States citizen?
> MR. BRICENO: Yes.

Compl. Ex. D at 9:2-13. Other protestations of innocence at the plea hearing came not from Mr. Briceno testifying under oath, as he now claims, Mem. 2, 9, 18, but from his attorney, Mem. at 3, 18, 19 (quoting Ex. D. at 5:13-17); *id.* at 5, 7, 9 (quoting Ex. D 5:12-15). Counsel's statements cannot constitute contrary evidence that renders the Complaint implausible. *See Bryant v. U.S. Steel Corp.*, 428 F. App'x 895, 897 (11th Cir. 2011).

III. Mr. Briceno's guilty plea estops him from denying the basis for Counts III, and IV.

Mr. Briceno seeks dismissal of Count III (false testimony) and Count IV (willful misrepresentation) on the sole basis that he lacked knowledge of his conspiracy's illegal aims when he joined it in July 2008. Mem. at 17, 18. As such, he argues, he did not give any false statements or testimony in his Form I-751, Naturalization Application, or naturalization interview when he said he had not committed a crime for which he had not been arrested and had never given false information for an immigration benefit. *Id.* But as discussed above, Mr. Briceno pleaded guilty to committing, prior to his naturalization, a conspiracy crime that required his knowledge, when he joined the conspiracy, of its illegal aim. *See* Compl. Ex. C at 2; *Ifediba*, 46 F.4th at 1243–44. He is thus estopped from denying that knowledge and that crime now. *See Islam*, 997 F.3d at 1341; *Dor*, 2017 WL 11538010, at *4. With no basis to deny committing a crime prior to applying for naturalization, he has no basis to seek dismissal of the counts alleging that he gave false testimony and made willful misrepresentations about that criminal history during his naturalization process. The Court should therefore deny the Motion as to Counts III and IV.

IV. Mr. Briceno's crime is categorically a CIMT.

Mr. Briceno argues that Count I, which seeks his denaturalization based on his commission of a CIMT during the statutory period, must be dismissed because his crime is not a CIMT. He is wrong; it is categorically a CIMT. In determining whether a conviction is a CIMT in an immigration context, courts must employ the so-called categorical approach (if the statute of conviction is not divisible and sets out alternative means of committing a single offense) or the modified categorical approach (if the statute of conviction is divisible and creates separate offenses). *See Zarate v. U.S. Att'y Gen.*, 26 F.4th 1196, 1199 (11th Cir. 2022). "Whether a crime involves the depravity or fraud necessary to be one of moral turpitude depends on the inherent nature of the offense, as defined in the relevant statute, rather than the circumstances surrounding a defendant's particular conduct." *Itani v. Ashcroft*, 298 F.3d 1213, 1215–16 (11th Cir. 2002). Courts then examine whether the least culpable conduct necessary to sustain a conviction under the statute meets the generic definition of a CIMT. *Zarate*, 26 F.4th at 1199. The generic definition of a CIMT encompasses any "act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." *Id.* at 1201. Under this analysis, crimes involving the intent to defraud are categorically CIMTs. *Id.* at 1202. An inchoate offense such as conspiracy qualifies as a CIMT if the underlying substantive offense qualifies as a CIMT. *Daye v. U.S. Att'y Gen.*, 38 F.4th 1355, 1362 n.5 (11th Cir. 2022).

Conspiracy to commit health care fraud is categorically a CIMT because its underlying substantive offense, health care fraud in violation of 18 U.S.C. § 1347, is categorically a CIMT. *See id.* Mr. Briceno points out that § 1347 includes two indivisible means of satisfying the crime: (1) defrauding a healthcare benefit program or (2) obtaining by means of false or fraudulent pretenses, representations, or promises, any money or property from a healthcare benefit program. Mem. at 12. But both involve fraudulent intent. *See United States v. Scott*, 61 F.4th 855, 863–64 (11th Cir. 2023). In *Scott*, the court noted the two means of satisfying § 1347 that Mr. Briceno identities, Mem. at 12, but found that for both means, the defendant must have "acted willfully and with intent to defraud." *Id.*; *see also* Pattern Crim. Jury Instr. 11th Cir. OI O53.1 (2025) (requiring that "Defendant acted willfully and intended to defraud" regardless of whether he defrauded health care benefit program or obtained money or property from health care benefit program). Thus, because § 1347 always requires an intent to defraud, it is a CIMT. *See United States v. Lopez*, 75 F.4th 1337, 1344 (11th Cir. 2023) (noting that "[f]raud offenses meet th[e] [CIMT] standard").

Briceno admits, as he must, that a crime involving the intent to defraud constitutes a CIMT and that the intent to defraud arises from the "intent to obtain some benefit or cause a detriment." Mot. at 12-13 (citing *Zarate*, 26 F.4th at 1207). But then he claims that "§ 1347 does not require an intent to obtain a benefit from or cause a detriment to someone. It merely covers conduct involving obtaining money or property by false or fraudulent means." *Id.* That proposition falls apart on its own recitation. Money and property are two types of "some benefit." Thus, because § 1347 in all cases requires the intent to obtain a benefit by false or fraudulent means, it is categorically a CIMT.

In *Zarate*, the Eleventh Circuit found the statute of conviction was not a CIMT, but *Zarate* does not dictate the result here because it involved a statute broader than § 1347. The statute in *Zarate* prohibited false representations made for "'any purpose,'" not just false representations made to obtain some benefit such as money or property. *Zarate*, 26 F.4th at 1202, 1207 (quoting 42 U.S.C. § 408(a)(7)(B)). The statute in *Zarate* thus did not require the intent to defraud in all cases. As noted above, § 1347 does, making it a CIMT. *See Scott*, 61 F.4th at 863–

64. And because § 1347 is the substantive crime underlying the conspiracy statute at § 1349, that latter statute is a CIMT as well. *See Daye*, 38 F.4th at 1362 n.5.

The Court should reject Mr. Briceno's argument that because § 1347(b) does not require specific intent to violate that statute for a conviction, the crime is not a CIMT. Mem. at 14-15. Section 1347 is a CIMT even if it does not require specific intent because it requires that a defendant knowingly and willfully defraud a health care program. *See* 18 U.S.C. § 1347(a). A *mens rea* of acting knowingly or willfully suffices for a CIMT. *See Acevedo Gonzalez v. U.S. Att'y Gen.*, 761 F. App'x 984, 987 (11th Cir. 2019); *see also Ndungu v. Att'y Gen.*, 126 F.4th 150, 160 (3d Cir. 2025) ("Specific intent, *deliberateness, or willfulness* satisfies that requirement" of a sufficiently culpable mens rea for a CIMT) (emphasis added). Mr. Briceno argues that in *Ramos v. U.S. Attorney General*, 709 F.3d 1066 (11th Cir. 2013), the Eleventh Circuit held that Georgia's theft statute did not categorically involve moral turpitude because it did not require a "specific intent" to deprive. Mem. at 14-15 (citing *Ramos*, 709 F.3d at 1071). *Ramos* is inapt here, however, because it addressed the generic definition of a *theft* crime—not the generic definition of a CIMT—and it held that "the generic definition of theft requires a specific intent to deprive." *Ramos*, 709 F.3d at 1071. Mr. Briceno's citation to *United States v. Houser*, No. 4:10-CR-012-HLM, 2011 WL 2118847 (N.D. Ga. May 23, 2011), Mem. at 14, is similarly inapplicable because that court addressed whether the pre- or post-amendment version of § 1347 applied to the defendant's conviction, and, in that context, it held that the defendant could not "be retroactively charged under an amended statute when the amendment lessens the mens rea required for conviction." *Id.* at *5. The omission of specific intent in the current version of § 1347 is irrelevant to the CIMT inquiry, which focuses on the wrongfulness of the conduct and which is met by the requirement of an intent to defraud. *See Scott*, 61 F.4th at 863–64; Pattern Crim. Jury Instr. 11th Cir. OI O53.1 (2025); *Lopez*, 75 F.4th at 1344.

Because the Complaint and its attachments plausibly allege that Mr. Briceno committed a crime and was subsequently convicted of it, and because that crime is, as a matter of law, categorically a CIMT, Count I of the Complaint properly alleges that 8 U.S.C. § 1101(f)(3) barred him from showing that he had the good moral character necessary to become a naturalized U.S. citizen. The Court should therefore deny the Motion as to Count I.

V. Mr. Briceno's crime is an unlawful act that reflects adversely on his moral character, and no extenuating circumstances exist to mitigate his guilt.

Because Mr. Briceno's crime of conviction inarguably involves fraud, it necessarily reflects adversely on his moral character and provides a sufficient basis for his denaturalization under Count II of the Complaint. *See Jordan v. De George*, 341 U.S. 223, 229 (1951). In addition, because Mr. Briceno's crime of conviction is categorically a CIMT, it necessarily reflects adversely on his moral character and provides a sufficient basis for his denaturalization under Count II of the Complaint. *See Dor*, 2017 WL 11538010, at *3 ("Any crime involving fraud as an ingredient involves moral turpitude and adversely reflects on moral character."); *see also United States v. Al-Aqaili*, 550 F. App'x 356, 357 (8th Cir. 2014) ("Acts involving moral turpitude, such as a crime in which fraud is an ingredient, . . . adversely reflect upon the applicant's moral character") (citation omitted).

Mr. Briceno raises two more meritless defenses to Count II. First, he claims his "complete lack of knowledge and intent to commit any unlawful acts" when he joined his conspiracy "sufficiently palliate or mitigate any guilt." Mem. at 17 n.5. But as noted above at Argument § III, he is estopped from denying that he was aware, when he joined his conspiracy in July 2008, of its unlawful aims because that knowledge is an essential element of his crime. *See*

Ifediba, 46 F.4th at 1243–44; *Richardson*, 532 F.3d at 1284; *Abovyan*, 988 F.3d at 1306–07; *Islam*, 997 F.3d at 1341. Second, he claims that "his service as a pastor" mitigates his guilt. Mem. at 17 n.5. But for extenuating circumstances to have any relevance, they must relate to the facts of the crime itself, not to countervailing acts of virtue from some other time in the defendant's life. *See United States v. Jean-Baptiste*, 395 F.3d 1190, 1195 (11th Cir. 2005) (holding that extenuating circumstances must address culpability for the crime at issue); *United States v. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) ("The narrow 'extenuating circumstances' exception . . . focuses on circumstances *during the statutory period* that may 'palliate or lessen' an offender's guilt for an offense") (emphasis added). If anything, the hypocrisy of a pastor conspiring to commit health care fraud aggravates, rather than mitigates, Mr. Briceno's offense. *See In re United Church of the Ministers of God*, 74 B.R. 271, 275 (Bankr. E.D. Pa. 1987) (noting the "totally appropriate outrage at the nature of the crimes of which Heidnik is charged and what [the trial court] believed was the sacrilegious hypocrisy of cloaking the financial support of such activities in the name of a church, strictly for purposes of tax evasion rather than for any cognizable religious motivation.").

The Court should therefore deny the Motion as to Count II.

VI. Laches is not available in a civil denaturalization action, and, even if it did, Mr. Briceno has failed to establish that this Court should apply it.

The Court should reject Mr. Briceno's argument that the equitable defense of laches warrants dismissal, based on the thirteen years between his conviction and the filing of this suit. *See* Mem. at 19. Mr. Briceno's argument fails because laches cannot apply in a civil denaturalization action or against the United States acting as a sovereign, as it is here. Even if laches could apply, Mr. Briceno has failed to establish that the Court should apply it here.

First, laches is simply not available in civil denaturalization proceedings. When Congress set the conditions for naturalization that Mr. Briceno failed to satisfy, it was exercising its constitutional authority to establish "'a uniform Rule of Naturalization.'" *Fedorenko v. United States*, 449 U.S. 490, 506 n.25 (1981) (quoting U.S. Const. art. I, § 8, cl. 4). That congressional prerogative precludes courts from exercising "equitable discretion to refrain from entering a judgment of denaturalization against a naturalized citizen whose citizenship was procured illegally or by willful misrepresentation of material facts." *Id.* at 517; *cf. I.N.S. v. Pangilinan*, 486 U.S. 875, 885 (1988) (holding that federal courts cannot invoke "equitable powers" to "confer citizenship in violation of [the statutory] limitations"). Laches is an equitable defense. *See Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 678 (2014) ("laches is a defense developed by courts of equity; its principal application was, and remains, to claims of an equitable cast for which the Legislature has provided no fixed time limitation"). Because laches, as an equitable defense to a denaturalization action, would countermand Congress's uniform rule expressed at 8 U.S.C. § 1421(d), the Court must refuse its application here.

Second, laches cannot apply in civil denaturalization because laches does not run against the United States acting in its sovereign capacity to enforce a public right or to protect the public interest. *United States v. Arrow Transp. Co.*, 658 F.2d 392, 394 (5th Cir. 1981). "When the United States acts to grant or take away the right of citizenship, it quintessentially acts in its sovereign capacity." *United States v. Mandycz*, 447 F.3d 951, 964 (6th Cir. 2006). Because the United States acted in its sovereign capacity when it sought to denaturalize Mr. Briceno, "the common law doctrine of laches does not apply." *Id.*; *see United States v. Hamed*, 976 F.3d 825, 831 (8th Cir. 2020) (citing *Mandycz*).

Following this panoply of authorities, courts in this district have rejected the laches defense in civil denaturalization cases. *See United States v. Borgono*, No. 18-21835-CIV, 2019 WL 2436279, at *3–4 (S.D. Fla. June 11, 2019) (denying motion to dismiss on laches); *United States v. Gkanios*, No. 12-60423-CIV, 2012 WL 5986625, at *3 (S.D. Fla. Nov. 29, 2012) (same), *aff'd*, 536 F. App'x 854 (11th Cir. 2013). Indeed, the Supreme Court and numerous circuits have upheld denaturalization proceedings against defendants regardless of how much time has passed since the defendant naturalized. *See, e.g.*, *Kungys v. United States*, 485 U.S. 759 (1988) (thirty-four years); *United States v. Arango*, 686 F. App'x 489 (9th Cir. 2017) (nineteen years); *United States v. Szehinskyj*, 277 F.3d 331 (3d Cir. 2002) (forty-one years); *United States v. Costello*, 275 F.2d 355, 356-57 (2d Cir. 1960) (twenty-seven years), *aff'd*, *Costello v. United States*, 365 U.S. 265 (1961). It is true, as Mr. Briceno notes, that the Eleventh Circuit "has considered whether a long delay in bringing a denaturalization suit violates the defendant's right to due process." Mem. at 19 (citing *Gkanios*, 536 F. App'x at 858). But Mr. Briceno fails to mention that in *Gkanios*, the Eleventh Circuit concluded that a twenty-year delay in bringing a denaturalization action "is not so unreasonable as to constitute a denial of due process." *Gkanios*, 536 F. App'x at 858. Indeed, the Eleventh Circuit requires a defendant to "show he was deprived of a constitutionally protected liberty interest and that he suffered substantial prejudice" to establish a due process violation. *Gkanios*, 536 F. App'x at 858. Mr. Briceno does neither in his motion.

The Court should reject the laches doctrine as inapplicable to all civil denaturalization actions. Alternatively, the Court can reject the laches defense here because Mr. Briceno has not demonstrated either prejudice or a protected liberty interest. Either way, the Court should reject Mr. Briceno's laches argument.

CONCLUSION

For the foregoing reasons, the Court should dismiss Mr. Briceno's Motion to Dismiss in its entirety.

Dated: December 15, 2025

Respectfully submitted,

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