

# SPECIFIC NEW YORK OFFENSES

- Theft NY VTL §511(3)(a)(i) Aggravated Unlicensed Operation of Motor Vehicle Reckless Driving

# Theft

## Theft & Intent to Permanently Deprive

A theft offense must include a permanent intent to deprive a victim of property which cannot be assumed.

The Board of Immigration Appeals has overruled its decision in *Matter of Jurado*, which assumed that retail theft in Pennsylvania inherently includes an intent to permanently deprive, finding it inconsistent with the categorical approach outlined by the Supreme Court in *Mathis v. United States*. The Board then concluded that Pennsylvania retail theft convictions criminalize less than permanent takings, and thus, under pre-*Diaz Lizarraga* precedent, they do not constitute crimes involving moral turpitude.

**Matter of Bharatkumar Girishkumar THAKKER, 28 I&N Dec. 843 (BIA 2024)**

(1) The assumption in *Matter of Jurado* that a retail theft offense involves an intent to permanently deprive a victim of their property is inconsistent with the categorical approach as currently articulated by the Supreme Court. *Matter of Jurado*, 24 I&N Dec. 29 (BIA 2006), aff'd sub. nom. *Jurado-Delgado v. Att'y Gen. of U.S.*, 498 F. App'x 107 (3d Cir. 2009), overruled in part.

**The full text of *Matter of Thakker* can be found here:**

**<https://www.justice.gov/d9/2024-09/4080.pdf>**

**NY VTL §511(3)(a)(i)**

**Aggravated**

**Unlicensed Operation**

**of Motor Vehicle**



## **Full Decision**

# Second Degree Attempted Assault is a Crime of Violence

The Second Circuit concluded that a conviction for attempted assault in the second degree is a crime of violence and therefore an aggravated felony. See *United States v. Cooper*, 23-6911 (2d Cir. March 14, 2025).

**Full text of *United States v. Cooper*, 23-6911, (2d Cir. March 14, 2025) can be found here:**

[https://ww3.ca2.uscourts.gov/decisions/isysquery/9fb1ca2c-a88a-4517-8f92-8c712c43b46f/3/doc/23-6911\\_opn.pdf](https://ww3.ca2.uscourts.gov/decisions/isysquery/9fb1ca2c-a88a-4517-8f92-8c712c43b46f/3/doc/23-6911_opn.pdf)

**\*\*Must update with citation once available.**

**For all these reasons, we hold that a violation of N.Y.P.L. § 120.05(7) is categorically a crime of violence as defined by section 2K2.1(a) of the Sentencing Guidelines.**

**Robbery -- Second  
NYPL 160.10 & Third  
Degree NYPL 160.05**

# **Statutes**

## **§ 160.10 Robbery in the second degree.**

**A person is guilty of robbery in the second degree when he forcibly steals property and when:**

- 1. He is aided by another person actually present; or**
- 2. In the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:**

**(a) Causes physical injury to any person who is not a participant in the crime; or**

**(b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or**

- 3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law.**

**Robbery in the second degree is a class C felony.**

## **§ 160.05 Robbery in the third degree.**

**A person is guilty of robbery in the third degree when he forcibly steals property.**

**Robbery in the third degree is a class D felony.**