

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 Bharkatkumar 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>

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