



Fundamentals of Federal Criminal Defense – Week 11

The Categorical Approach – A Primer

- a. **Date:** Wednesday, April 28, 2021 from 3:30-4:30 p.m. EDT
- b. **Duration:** 60 minutes
- c. **CLE Category:** General
- d. **Description:**

“I love the categorical approach!” – said no federal practitioner (or court), ever. The categorical approach has been a thorn in our sides since it was created by the Supreme Court in *Taylor v. United States*, 495 U.S. 575 (1990). From the Armed Career Criminal Act, to Section 924(c); from the career offender guideline, to child pornography sentencing enhancements, the categorical approach cannot be avoided. But while it may be here to stay, this analytical framework has proven to be one of our greatest tools to achieve substantive relief for our clients. In this interactive presentation, attendees will work through each step of the categorical and modified categorical approach analyses. The presentation will place particular emphasis on post-*Mathis* issues of statutory divisibility and the use of *Shepard*-approved documents. Attendees will leave this session with a greater comfort in employing the categorical approach, will be able to identify common missteps and opportunities for advocacy, and will perhaps even leave with some fondness for the framework so many have grown to hate.

- e. **Presenter:**

KARA HARTZLER is an appellate attorney at the Federal Defenders of San Diego, Inc. Prior to joining the Federal Defenders, she served as the Legal Director and Criminal Immigration Consultant at the Florence Immigrant and Refugee Rights Project in Arizona, where she specialized in the immigration

consequences of criminal convictions. She has authored numerous books, articles, and resources for defense attorneys, including *Surviving Padilla: A Defender's Guide to Advising Noncitizens on the Immigration Consequences of Criminal Convictions*. Kara also served as an adjunct professor at the University of Arizona College of Law and testified in front of the U.S. House of Representatives Subcommittee on Immigration on the detention and deportation of citizens and other due process violations in the immigration system. She is the recipient of the 2018 E. Stanley Conant Award, the 2017 Outstanding Assistant Federal Defender award, the 2013 David Carliner Public Interest Award, the 2013 Randy Tunac Courage in Immigration Award, and the 2010 Robert J. Hooker Award for service to the defender community.

- f. **Materials:** Written handout materials will be provided to participants.