[MUSIC PLAYING]

NINA MOINI: *The Wall Street Journal* is reporting that the Trump administration's investigation into Minnesota Congresswoman Ilhan Omar is aimed at building a case to revoke her citizenship and eventually deport her. MPR News has not independently confirmed that. Trump administration officials have suggested the investigation relates to alleged immigration fraud.

The Department of Justice searched Omar's Washington, DC, home on Monday morning. In a statement, she called it, quote, "an attempt to target political enemies and weaponize federal law enforcement." There's a lot we don't about the DOJ's investigation, but it's happening alongside a wider effort to bring forward more denaturalization cases. Joining me to help explain what the process entails in Minnesota is immigration attorney David Wilson. Thanks for coming back on the program, David.

DAVID WILSON: No, thank you for having me.

NINA MOINI: Could you start by explaining the denaturalization process? What are the most common scenarios where the government builds a case to strip someone of their citizenship?

DAVID WILSON: Well, there's two variants of this. There's a criminal version, and there's a civil version. The vast majority of denaturalization petitions that are filed are actually the civil version, and the reason being because it's broader and gives the government more latitude to seek to take away someone's citizenship. And so it's accomplished by filing a petition in federal court, like starting a lawsuit, and the individual gets 60 days to respond to it.

And the government has to show by clear and convincing evidence that someone illegally procured their naturalization or committed fraud somehow during the naturalization process. It's a pretty high burden on the government. And it's why this procedure is not invoked that often. But in this current administration, we're seeing it more and more as time goes on.

NINA MOINI: But the DOJ, those are criminal investigations, typically?

DAVID WILSON: They're typically not. There's a specialized unit in the Department of Justice in Washington that is focused on the civil side of denaturalization. There is a criminal charge that can be used, but the difference is in the criminal charge, the government has the burden, by reasonable doubt, of proving that someone knowingly made a false statement or committed fraud during the naturalization process, whereas in the civil side, it can still be a technical issue. For example, someone didn't know that they weren't eligible for some obscure reason. And that would be enough for the government to try to pull the string of unraveling someone's citizenship.

NINA MOINI: National media have also reported the DOJ has subpoenaed members of Congresswoman Omar's family, seeking evidence for a grand jury. So, as I mentioned, the agency previously executed a search warrant in her home. Are these steps that are typical in a denaturalization case?

DAVID WILSON: No. No, this is what makes this very unusual. So it's very clear that they're operating on their criminal side under 18 USC 1425, and trying to use that statute as a foundation for using the grand jury power to subpoena people and then also request warrants from US magistrates or judges. In the civil context, that doesn't happen. They can certainly use the rules of civil procedure to schedule a deposition of someone or subpoena them for a hearing. But that's only after the petition's already filed in court.

On the criminal side, they do the investigating before they go to court. And then the civil is after the fact. But even then, it's exceptionally rare because usually, it's based on something that's known in the file or, for example, criminal activity that can be established through public records without having to get a subpoena.

NINA MOINI: You mentioned some of the reasons that a denaturalization case or process might occur or an investigation. Is it typical for discrepancies in immigration paperwork to lead to denaturalization cases?

DAVID WILSON: It's not. Historically, it has to be something of significance that gets the attention of the government to the point that they want to seek to take away someone's citizenship. The Supreme Court made it very clear that depriving someone of this privilege puts a very high burden on the government to accomplish that. And so when these petitions are brought in the civil context in the vast majority of the time, it's because someone really has a glaring mistake.

For example, in Minnesota, we've had cases where someone was later discovered to have to work for the Nazi regime, and maybe as a prison guard or something like that, where the US would never have left that person in the United States if they had known the truth. Or the person had committed some kind of tax fraud, but it took years for it to come out.

And so those are common examples where it's something rather significant. If the government had any inkling it was happening at the time of the naturalization process, the person never would have been approved. And more likely than not, they actually would have probably been put in deportation proceedings. So the ticky tacky "I was married, but maybe I was separated, instead of living with my spouse," those kind of things aren't usually the kind of foundation for this type of petition.

NINA MOINI: Yeah, and we should just clarify, again, MPR News doesn't the exact nature of what's going to the grand jury or what all this investigation entails. But again, the Trump administration has publicized an effort to bring forward more denaturalization cases. David, what are you seeing in your work?

DAVID WILSON: So one thing that's coming out this year that's different than prior administrations, there's a clear effort to go back and digitize files that are going back 30, 40 years. And they're looking for biometric matches, so taking old fingerprint cards that were probably processed by paper and manual searches 20 or 30 years ago. They're actually going back and rerunning them.

And then on occasion, they're finding that maybe this person has another identity or is associated with another file that they didn't know there might be a relation that could have been relevant to whether they would have allowed the person into the United States in the first place. So I would say that we're really seeing an increase in digital tool usage in order to really widen the dragnet that the government has. And it's finding people that otherwise, even a couple of years ago, may not have been caught.

NINA MOINI: What happens to someone when their immigration status-- when they're denaturalized? Or what can happen? What are some of the different routes?

DAVID WILSON: Well, it depends on what the issue is, because sometimes it's an issue with the naturalization itself. But that doesn't mean the person then loses their ability to live in the United States. They may revert back to just being a permanent resident, for example. But if it's something that goes farther back and it's actually tied up in how the person became a permanent resident in the first place, which is a condition to being naturalized-- you have to be a permanent resident for five years before you can even become a citizen. If it's something that happened during that period before they even became a permanent resident, the government then can try to take away the residency after that. And so then the person is left with no status and ability to stay in the United States.

Often, that is what is the pattern because, usually, it's an issue with getting the residency that then becomes, let's say, exponentially more potent in the naturalization context. And so if it bothers a person's citizenship or unravels it, it likely will play a factor in-- a significant risk of losing any status in the United States.

NINA MOINI: And just lastly, David-- I mean, you touched on this some, but does the federal government or do these entities have to prove motive, that somebody knowingly did something, or if there were just mistakes with paperwork? Or do they take that intent into account?

DAVID WILSON: That's true for the criminal case. The knowingly applying for something, knowing you're not eligible, is a pretty significant difference from the civil standard. The civil standard, you don't have to even know that you are making a mistake. The law is very broad in that regard. And so if it's determined that a person received their green card in error-- for example, they weren't legally married to someone when, in fact, they thought they were-- that would be a perfect example. And they relied on a marriage certificate that proved to be, years later, defective for some reason. That could still cost someone their citizenship.

And so, theoretically, it could be a very sweeping statute. Realistically, that's not the kind of issues the government's looking for. Most of the petitions that are pending right now around the country, there are some very obvious behavior around it. It's either criminal contacts, allegations that a person, for example, was associated with a warlord in a foreign country, things that would be contrary to the interests of the US from a policy standpoint. You're not seeing a lot of paper discrepancy issues.

At this point, too, the government is much more effective at catching them before people naturalize. So it would be really surprising to see those start emerging. But it's going to be the more common-- and these aren't even very common things, these denaturalization petitions, but it's very common that it's going to be something really big that emerges later. I think the most common one is criminal behavior, that someone knew they committed a crime, but they didn't get caught until later. But the crime occurred before they became a citizen. That's a very common reason why denaturalization happens.

NINA MOINI: David, thank you so much for your perspective and your expertise, as always. We really appreciate your time.

DAVID WILSON: No, you're welcome. Thank you for the opportunity.

NINA MOINI: David Wilson is an immigration attorney based in Minneapolis.