

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
United States Immigration Court
901 North Stuart Street, Suite 1300
Arlington, Virginia 22203**

IN THE MATTER OF:

KOEUN, You

Respondent

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**In Removal Proceedings
Cincinnati, Ohio Video Docket

File No.: A27-819-377**

CHARGE:

Section 237(a)(2)(A)(iii) of the Act, as amended, as an alien who at any time after admission has been convicted of an aggravated felony as defined in Section 101(a)(43)(F) of the Act, a crime of violence (as defined 18 U.S.C. Section 16) for which a term of imprisonment ordered is at least one year.

APPLICATION:

Motion to Terminate

APPEARANCES

FOR THE RESPONDENT:

Charleston C. K. Wang, Esquire
The Wanglaw Building
6924 Plainfield Road
Cincinnati, Ohio 45236

FOR THE DHS:

Wayne Benos, Assistant District Counsel
Department of Homeland Security
901 N. Stuart Street, Suite 1307
Arlington, Virginia 22203

DECISION AND ORDER

The Respondent is a native and citizen of Thailand who entered the United States at San Francisco, California on July 14, 1986 as a legal permanent resident. The Respondent was convicted of one count of aggravated vehicular homicide in violation of Ohio Revised Code § 2903.06(A) and two counts of aggravated vehicular assault in violation of Ohio Revised Code § 2903.08(A)(2). All three counts require the *mens rea* of "reckless." This Court must determine whether recklessness in the context of these statutes constitute a crime of violence under 18 U.S.C. § 16 in the case at hand.

In *Leocal v. Ashcroft*, 125 S.Ct. 377 (2005), the Supreme Court held that DUI offenses that either do not have a *mens rea* component or require only a showing of negligence in the operation of a