

to which the Respondent was convicted do not rise to the level of a crime of violence for purposes of 18 U.S.C. § 16, and therefore these proceedings must be terminated. This Court believes this decision is mandated by *Leocal* and is consistent with all subsequent BIA and circuit authority on this specific issue. This Court's conclusion here does not intend to opine that "reckless" conduct would not rise to the level of a crime of violence for purposes of 18 U.S.C. § 16 in any context. The Third Circuit seems to have reached such a conclusion for that circuit when it held in *Tran v. Gonzales*, 2005 WL 1620320 (3rd Cir. 2005), that reckless burning or exploding in violation of 18 Pa.Cons.Stat. § 3301 does not constitute a crime of violence under 18 U.S.C. § 16. This result appears to go beyond what the *Leocal* court held. Apart from the significant fact that the statute at issue there was not a DUI statute, one could reasonably conclude that burning or exploding by its nature certainly is a crime of violence. In any event, the Respondent does not need to rely on *Tran* to support his position.

Accordingly, the Court enters the following order:

ORDER

It is Ordered that:

The Respondent's motion to terminate proceedings is
GRANTED.

August 22, 2005
Date



Garry D. Malphrus
United States Immigration Judge