



Dean's Message



Bruce Edge

The early years of my legal career were anything but easy. I took every case I could, accepted payment in any form (once even a car—only to discover it had no engine), and carried the weight of it all alone. Everything changed the day I walked into my first NCDD seminar.

I didn't go to Vegas for the lights. I went because I needed answers—and I found them. I listened to legends like Lawrence Taylor, met peers like John Hunsucker (who still owes me lunch), and discovered a community that changed my entire career.

Through NCDD, I've grown in ways I never imagined. I found not just training, but inspiration and friendships that reshaped my path. My practice was transformed when I became Board Certified—because this College showed me what was possible. Today, I'm deeply honored and grateful to serve as your Dean. Thank you for this opportunity to lead. It's a privilege I take seriously.

I wish to report that the College is stronger than ever. Our membership continues to grow, and we offer:

- Four major seminars each year
- ABA-accredited Board Certification in DUI Defense
- Free webinars
- Science-based training in breath and blood
- SFST and ARIDE courses
- A growing national network built on support and excellence
- Amicus briefs filed in 15 states and 12 SCOTUS submissions

But we will not sit on our laurels. We will continue to explore new areas and bring you programs filled with the information you need. An example is the upcoming winter session. We'll host a first-of-its-kind seminar in Austin, Texas, exploring: Cutting-edge police technology- (CAD, ALPR cameras, Stingray devices and much more). AI's growing impact on policing, prosecution, trial practice, discovery and law office operations.

There are many opportunities for you within the college and as you avail yourself of them, you are also helping support the college. A few things for you to consider are: Attend seminars. Participate on the Listserv, volunteer, blog, journal, mentor, task force, encourage a colleague, sit for Board Certification. Whatever you choose, stay connected. We're just getting started.

With deep appreciation,
Bruce Edge

E.D.'S Corner



Rhea Kirk

It's hard to believe that 2025 is half over and we are heading into Fall! Well-bring on 2026 with a bang and attend Dean Bruce Edge's amazing Winter Session January 15 & 16. We are putting on the finishing touches of the agenda and hotel I hope you are making plans to attend because, not only will you learn a great deal, but you will also enjoy getting visiting Austin, Texas and visiting with your fellow attendees. This will be a very informative Seminar!! Watch for more information coming soon!

More upcoming seminars:

- Vegas: Gaining the Winning Edge-Las Vegas, NV
October 22-25, 2025
- Breath Testing: From Input to Verdict-Phoenix, AZ
November 12-15, 2025
- Winter Session: Beyond the Gun and Badge: AI and Exploding Technology-Austin, Texas
January 15 & 16, 2026
- Mastering Scientific Evidence (MSE) - New Orleans
March 26 & 27, 2026

...and more great seminars to come!

Please visit the NCDD Website www.ncdd.com for more details for our upcoming events or call the NCDD Office 334-264-1950 for more information.

Don't forget to update your bio on the Website and include your picture!! We are getting a lot of traffic which is potential business for YOU! ALSO- Get involved with the NCDD Task Forces today! Just call and we will get you on the Task Force Committee of your choice! The list of Task Forces is on the NCDD Website! It's a great way to do great work and meet other NCDD members that are in the trenches with you!

Have a great fall and enjoy falling leaves, cooler weather and some great football! I look forward to seeing you at one of our NCDD seminars soon!

Rhea

SAVE THE DATES!

BREATH TESTING FROM INPUT TO VERDICT

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Case Law Update

By Flem Whited III

ACTUAL PHYSICAL CONTROL

Bold v. Department of Transportation, 320 A.3d 1185 (Pa. 2024)

Defendant sleeping in running vehicle on cold night insufficient to support probable cause that he was driving or in physical control of the vehicle to support further alcohol testing; In determining whether an officer had reasonable grounds to believe that a motorist was in actual physical control of a vehicle, the court must consider the totality of the circumstances, including the location of the vehicle, whether the engine was running and whether there was other evidence indicating that the motorist had driven the vehicle at some point prior to the arrival of the police.

Commonwealth v. Wurtzberger, 260 N.E.3d 315 (Mass. 2025)

Massachusetts Supreme Court affirms conviction where Defendant found sleeping in parked vehicle.

ARREST

Atwell v. State, 2024 WL 5149918 (Fla. App. 2024)

Officer did not have lawful authority to arrest driver for DUI where all elements were not observed in his physical presence; Citizen witness did not effectuate a valid citizen's arrest.

Commonwealth v. Smith, 2025 WL 2058805 (Pa. Super. 2025)

Bloodshot eyes, an unsteady gait and slurred speech without odor of alcohol or marijuana insufficient to support probable cause to arrest for DUI.

Zorn v. State, 2025 WL 1661480 (Tex. App. 2025)

No probable cause to arrest for DUI where no bad driving, no slurred speech and SFSTs were not properly conducted on morbidly obese subject.

BLOOD TEST

Commonwealth v. Gannett, 2025 WL 1478500 (Mass. 2025)

Evidence of BAC as result of state analysts' mathematical conversion of blood test results was not a chemical "analysis" of defendant's blood and thus was not subject to requirement that defendant have consented to such an analysis in order for it to be admissible.

State v. Johnson, 2025 WL 311834 (Ga. App. 2025)

Provision in search warrant that testing was requested "for the purpose of testing to determine the [extent] to which Ms. Johnson had consumed alcohol" did not allow for the additional testing for controlled substances.

La Anyane v. State, 2025 WL 676655 (Ga. 2025)

Georgia Supreme Court holds their implied consent law is not unconstitutionally coercive; Further, the warning that a refusal to submit is also not unconstitutionally coercive and may be argued to the jury.

State v. Leer, 2024 WL 5244533 (Wash. App. 2024)

Blood-alcohol test from blood taken in vials that were past manufacturer's expiration date approximately two years after blood draw was admissible under challenge to compliance with blood regulations; Defendant failed to preserve his Frye challenge.

Ex Parte Ramirez, 2025 WL 225198 (Ala. 2025)

State's statutory notice to defendant that it intended to rely on Department of Forensic Sciences' (DFS) certificate of analysis, in lieu

of direct testimony, at scheduled trial in district court on charges of driving while under the influence of a controlled substance (DUI) and possession of drug paraphernalia did not constitute sufficient statutory notice to defendant of State's intention to use same evidence at later trial de novo in circuit court.

State v. Ragan, 2024 WL 5220693 (Wis. App. 2024)

Wisconsin police officer's subjective reliance on state statute providing for implied consent where driver causing crash was incapacitated six months after Mitchell v. Wisconsin still provided "good faith" exception. Vol 43, #22.

Editor's Note: In Campbell v. State, 288 So.3d 739 (Fla. 5th DCA 2019), the Court held that the Good Faith Exception did not apply in a case where the driver was involved in a fatal crash the day after Birchfield v. North Dakota, --U.S.--, 136 S.Ct. 2160, 195 L.Ed.2d 560 (2016) was decided.

Kanta v. State, Department of Licensing, 2024 WL 4357960 (Wash. App. 2024)

Blood result obtained from expired blood vials admissible.

State v. Tre Harris, 2024 WL 4498643 (Fla. App. 2024)

Exigency created by officer own actions cannot provide exception to warrant requirement; Court rejects inevitable discovery as a reason to uphold trial court ruling.

State v. Arora, 2024 WL 5200479 (Tenn. Crim. App. 2024)

Tennessee Court of Appeals rejects requirement of new warrant to search blood validly taken with search warrant.

State v. Miller, 2024 WL 5153199 (Iowa App. 2024)

No expectation of privacy in trauma area of hospital emergency room; Evidence obtained from observations in the trauma area was properly before court as evidence to issue warrant for blood; No requirement under statutory requirement to use "new" equipment when drawing blood to show expiration dates for the disinfecting swab, needle, syringe and transfer device taken from the supply drawer to the area where the blood was drawn; Allegation that State did not meet its burden to prove that "new equipment" was used to draw his blood because it could not show the expiration dates for the disinfecting swab, needle, syringe, and transfer device taken from a supply drawer in Miller's hospital room in the critical care unit is not a statutory requirement.

Commonwealth v. Hunte, 2025 WL 1703981 (Pa. 2025)

Statute that provides for blood draw of person receiving emergency medical treatment where there is probable cause to believe that person is driving under the influence held unconstitutional.

BREATH TESTS

Knapp v. Commissioner of Public Safety, 2025 WL 1427606 (Minn. App. 2025)

It is an abuse of discretion for a district court to determine that DMT test results are unreliable and to rescind the revocation of driving privileges based solely on evidence of an imperfect or improper pretest observation period; Without evidence that the driver ingested something or otherwise experienced a bodily function during the observation period and without evidence that the driver's ingestion or bodily function affected the test results.

Hickles v. Kansas, Dept. of Revenue, 2025 WL 24825 (Ka. App. 2025)

No substantial compliance with 20-minute observation period where officer failed to conduct full observation period after driver burped".

COMMERCIAL DRIVER'S LICENSE REVOCATION

Chappell v. Pa., Department of Transportation, 2024 WL 4471775 (Pa. Cmwlth. 2024)

Section 1611(c) of the CDL Act, which imposes CDL disqualification

Continued...

for a second DUI conviction, does not create an inference of gross disproportionality such that the statute violates the Eighth Amendment.

CONFRONTATION CLAUSE

State v. Hall-Haught, 2025 WL 1523492 (Wash. 2025)

Laboratory toxicology report created by forensic analyst which showed quantity of tetrahydrocannabinol (THC) in defendant's blood after the collision was testimonial and thus implicated the confrontation clause; Report was admitted to prove truth of matter asserted, as could support finding that confrontation clause was violated when State called laboratory supervisor, rather than forensic analyst who created report, to testify about toxicology results based on the report; and; Forensic analyst who created report was "witness" against defendant for purposes of confrontation clause.

State v. Johnson, 2024 WL 5133475 (Mont. 2024)

A 911 caller's statements regarding defendant's intoxication and caller's belief that defendant was about to commit the crime of driving under the influence (DUI) were testimonial in nature, for Confrontation Clause purposes.

CONSENT

State v. Johnson, 2025 WL 343221 (Hawaii App. 2025)

Statement to driver that if he blew under the limit he would not be charged was not an accurate statement of law resulting in suppression of the test result.

CONTINUED DETENTION

People v. Serrano, 229 A.D.3d 642 (N.Y. App. 2024)

Officers had reasonable belief that defendant was in distress, as factor allowing officers to initially stop defendant's vehicle in valid exercise of their community caretaking function, but Officers' continued questioning of defendant was not a narrowly tailored intrusion that addressed the perceived need to assist defendant, as would demonstrate lawful exercise of community caretaking function.

DOUBLE JEOPARDY

Ex Parte Estevez, 2025 WL 1577797 (Tex. Crim. App. 2025)

Double Jeopardy prohibits punishment for second DUI where that crime was used to hold Defendant in contempt for violating bond condition on first DUI.

DRUGS – DUI

Wright v. State, 2024 WL 5243960 (Ga. App. 2024)

Error to exclude defense expert in pharmacology because testimony "would not be sufficiently reliable so as to help the trier of fact" as required under Rule 702 (b) (1) and (1) the professor had "not engaged in any studies, field tests or direct evaluations concerning the effects of drugs on the ability of a human being to operate a motor vehicle safely" and (2) because the professor could not testify to the "direct result ... of drugs on a human being's ability to operate a motor vehicle safely".

FIELD SOBRIETY TESTS

State v. Hall, 2024 WL 5153077 (Or. App. 2024)

Error to allow testimony that showing of two clues on the walk-and-turn and one-leg-stand indicates impairment resulting in reversal of conviction.

HGN

State v. Rodriguez, 2024 WL 4614102 (Or. App. 2024)

Officer's failure to ask medical screening questions prior to administering HGN was a failure to follow how he was trained to administer

the test which results in reversal of conviction.

IMPAIRMENT THEORY

Panaro v. State, 2024 WL 5100260 (Fla. App. 2024)

In DUI impairment case Defendant had the right to call expert witness to testify to his estimated BAC at the time of arrest; Conviction reversed.

Richardson v. Commonwealth of Virginia, 2025 WL 36976 (Va. App. 2025)

Officer's observation of "glassy eyes, slurred speech," "sweating" and behaving in a manner he perceived as confusion insufficient to support conviction for DUI; Body cam footage shows defendant completely avoiding eye contact with officer, slowly walking about the scene without exhibiting issues with his balance, and responding to the officers' questions and directions in a normal manner".

IMPLIED CONSENT

Clark v. Gordon, 2024 WL 4163081 (Cal. App. 2024)

DMV hearing officer that marshalled, identified, and offered into evidence the DMV's exhibits, then overruled motorist's objections and admitted those exhibits, and officer thereafter rigorously cross-examined motorist violated driver's due process rights.

INDEPENDENT TEST

Story v. Commonwealth, 2024 WL 5181547 (Ky. 2024)

State violated defendant's statutory right to independent test when officer took possession of the blood sample from the hospital where the independent test was conducted; Issuance of a warrant to take and test that sample was error also.

PER SE VIOLATIONS / EXPERT TESTIMONY

State v. Wasuage, 2024 WL 4116392 (Wash. App. 2024)

Toxicologist's expert testimony regarding burn-off rate at which the general population metabolizes alcohol was inadmissible; Toxicologist's expert testimony regarding non-profit medical organization's recommendation that state legislatures lower the "per se" blood alcohol concentration (BAC) limit for driving under the influence (DUI) offenses from .08 to .05 percent was inadmissible.

People v. Buie, 2025 WL 1982213 (Cal. App. 2025)

Court reverses BAC enhancement where no evidence presented that Defendant's BAC was over 0.150 AT time of driving.

PRIOR CONVICTIONS

Commonwealth v. Shifflett, 2025 WL 1554603 (Pa. 2025)

Statutory provision mandating that acceptance into the ARD program was a prior conviction for enhancement purposes held unconstitutional by Pennsylvania Supreme Court.

State v. LaPointe, 2025 WL 1692503 (Mont. 2025)

Defendant's prior DUI convictions in California constituted prior DUI convictions in Montana for purposes of felony enhancement.

State v. Woodcox, 2024 WL 4143385 (Alaska App. 2024)

Conviction for DUI in military court under Uniform Code of Military Justice sufficiently similar to Alaska DUI to allow enhanced penalties.

State v. Glover, 2024 WL 4973439 (Idaho App. 2024)

In determining whether a foreign DUI statute substantially conforms to Idaho's DUI statute, the focus of the comparison is on the elements of the respective statutes and not the specific conduct giving rise to the prior violation; The phrasing in the two statutes includes some differences, exact correspondence in language is not required.

Continued...

Ferguson v. Department of Transportation, 2025 WL 2044751 (Pa. 2025)

Statute directing that when anyone is convicted of driving under the influence (DUI), Pennsylvania Department of Transportation (PennDOT) must suspend that person's driver's license, with narrow exception, did not violate substantive due process by precluding drivers with previous accelerated rehabilitative disposition (ARD) acceptance from eligibility for exception; While driver's acceptance of ARD did not constitute admission or finding of guilt, it did reflect decision by driver not to affirmatively dispute commission of offense, and it was rational to believe individual who completed ARD and thereafter drove while intoxicated was less easily deterred from continuing to drink and drive than first time offenders.

PROSECUTOR MISCONDUCT

Collins v. State, 2024 WL 4314862 (Md. App. 2024)

Prosecutor that analogized the reasonable doubt standard to the decision to forgo an Uber ride with a driver like Appellant minimized the reasonable doubt standard because the decision to take an Uber is not a sufficiently "important matter in [one's] own business or personal affairs." Conviction reversed.

People v. Woodruff, 2024 WL 4578820 (Colo. App. 2024)

Defendant's statement to sister regarding what was going on prior to the fatal crash was hearsay but should have been admitted; Numerous unobjected to prosecutorial misconduct; such as,

The prosecutors' characterization of the defense theory as

An "attempt[] to dodge responsibility for his death," and "an insult to [Roberts]";

As "requiring incredible mental gymnastics"; As "a story only told by defense counsel";

As a "façade"; as requiring "flights of fancy to buy";

As "baffling"; as "ridiculous";

The prosecutor's description of her condition as a "special kind of unconsciousness";

His description of defense counsel's demonstration of what could have occurred during the syncope event as "distracting performance art"; and

The prosecutor's argument that to acquit Woodruff, the jury had to "believe her story," followed by a series of events comprising that story,

And concluding with, "And ladies and gentlemen, if you believe that, I've got some ocean front property in Arizona to sell you."

State v. Starr, 2025 WL 477867 (Or. App. 2025)

Prosecutor arguing to the jury "The [d]efense never actually presented a bottle or even a prescription tape of Xanax" results in reversal of conviction.

State v. Anderson, 2025 WL 1902308 (Or. App. 2025)

These Comments by the Prosecutor result in reversal of conviction: "Those field sobriety tests. Officer Garza had tried to ask the defendant questions. He tried to get an investigation going and the defendant refused. I mean, if you are being accused of something that you didn't do, you would want to do everything you can to throw it back in the officer's face and say, 'You're wrong.'"

REASONABLE SUSPICION

State v. Howard, 2025 WL 1349035 (Fla. App. 2025)

Court holds that failure to maintain single lane statute requires one must (1) drive their vehicle "as nearly as practicable entirely within a single lane[.]" and (2), the vehicle "shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety." The driving "as nearly as practical" requirement does not require that another driver's safety be shown.

People v. Brown, 42 N.Y. 3d 270 (Ct. App. N.Y. 2024)

Police officer's stop of defendant's vehicle, based on his observation of the passenger side door opening and closing while the vehicle was in motion, was not justified pursuant to the community caretaking doctrine.

State v. Taylor, 2024 WL 4839188 (W.Va. 2024)

Officer's stop of vehicle for expired inspection sticker was reasonable under Heien even after the State had exempted compliance with this requirement during Covid; But see: Dissenting Opinion.

People v. Vasquea, 2024 WL 4530049 (N.Y. App. 2024)

Observation of vehicle stop for a couple of minutes at two stop signs does not give rise to reasonable suspicion to stop the vehicle.

Vincent v. Commonwealth, 2024 WL 5174131 (Ky. 2024)

Stop illegal where traffic law driver was alleged to have violated had not taken effect prior to the stop; Stop cannot be justified as a reasonable mistake of law.

REFUSAL

State v. Torres, 2025 WL 1572387 (Minn. 2025)

While probable cause is a requirement for the issuance of a warrant for a blood or urine sample, it is not an element of proof in a prosecution for refusal to submit to a blood or urine sample after a warrant has issued.

RESTITUTION

People v. Lockett, 2025 WL 209089 (Colo. App. 2025)

Colorado restitution statute allows the court to award restitution to a victim's insurance company in non-felony traffic cases, but only if the prosecution proves that the insurer cannot be compensated for its loss under a policy of insurance, self-insurance, an indemnity agreement, or a risk management fund.

State v. Alvarado, 2025 WL 1922440 (Minn. App. 2025)

Court upholds restitution order to deceased victim's workers compensation carrier.

SEARCH AND SEIZURE

People v. Suprunchik, 2025 WL 1583082 (N.Y. App. 2025)

Officer violated Defendant's expectation of privacy in driveway where there was posted "No Trespassing" and "Private Property" signs to get closer look at vehicle suspected of leaving the scene of a crash.

State v. Iams, 2024 WL 5153210 (Or. App. 2024)

Defendant had a protected interest in her driveway; Entry by officer following the defendant to issue traffic citation without a warrant or valid exception was unconstitutional.

State v. Leos-Garcia, 2024 WL 5119006 (Or. App. 2024)

Defendant had a protected interest in her driveway; Entry by officer to investigate person sleeping in a vehicle without a warrant or valid exception was unconstitutional.

SCIENTIFIC EVIDENCE

State v. Grad, 2024 WL 5021413 (W.Va. 2024)

New scientific evidence may permissibly constitute newly discovered evidence; A court must first evince a clear understanding of what the new scientific evidence shows; It must then compare that evidence to the level of similar-subject scientific evidence available at the time of trial; In doing so, it must query whether, if the trial were to occur today, the new evidence would provide the defendant with a significantly stronger argument for his defense such that it could have the effect of leading to a different outcome; If the answer is yes, then the defendant has presented "clear and convincing proof that the

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defendant was unavoidably prevented from the discovery of the evidence upon which he must rely,” Crim.R. 33(B), and the motion for leave should be granted.

SENTENCE

People v. Scott, 2024 WL 4987292 (Ill. App. 2024)

Sentence reversed to allow trial court properly consider level of impairment as a factor in sentencing; make clear its factual findings about what role, if any, impairment played in causing the accident; and ensure a proper record to support such findings.

VIDEOTAPES

State v. McClain, 2024 WL 4966121 (Or. App. 2024)

Lost videotape of officer conducting breath test violates Defendant’s due process rights resulting in reversal of conviction for new trial; Exclusion of test result may be proper remedy.



H.R. 875 (“Protect Our Communities from DUI’s Act”): What It Is, What Happened in 2024 & 2025, and What It Could Mean for Immigrants By J. Christopher Llinas

A QUICK HISTORY LESSON

In 2024, the House Judiciary Committee reported H.R. 6976 out on January 25, 2024. The House passed it 274–150 on February 1, 2024. The bill then went to the Senate and was referred to the Senate Judiciary Committee on March 2024, where it stalled as the 118th Congress ended. The 2024 text already contained the core idea – to create a new 8 USC § 1182(a)(2) inadmissibility ground that covered convictions or admissions to DUI/DWI-type offenses, and a new 8 USC § 1227(a)(2) deportability ground based on a DUI/DWI-type conviction, regardless of whether the offense is a misdemeanor or felony under state law.

In 2025, the bill was reintroduced, on January 31, 2025, as the Jeremy and Angel Seay and Sergeant Brandon Mendoza Protect Our Communities from DUI’s Act of 2025. The House Judiciary Committee reported it on March 21, 2025, and The White House, on June 23, 2025, issued a Statement of Administration Policy supporting the bill. The House passed it 246–160 on June 26, 2025, and the bill was referred to the Senate Judiciary Committee on June 27, 2025, where it remains pending.

WHAT THE BILL ACTUALLY SAYS

The bill the House passed in 2025 does the same two big things as the bill it passed in 2024. First, it creates a new ground of inadmissibility, under 8 USC § 1182(a)(2)(J), rendering a noncitizen inadmissible if they have (a) been convicted of, (b) admit having committed, or (c) admit committing the essential elements of an offense for driving while intoxicated or impaired, including being under the influence of alcohol and/or drugs – without regard to whether state law labels it a misdemeanor or felony. And second, it creates a new ground of deportability, under 8 USC § 1227(a)(2)(G), rendering a noncitizen deportable if they have been convicted of an offense for driving while intoxicated or impaired (again, by alcohol and/or drugs), regardless of misdemeanor/felony classification.

HOW THIS WOULD CHANGE IMMIGRATION CONSEQUENCES FOR DUI/DWI



Right now, under current law, a single DUI conviction, a subsequent offense DUI conviction, and even multiple convictions for DUI, without more, do not render an immigration inadmissible or deportable, as they do not constitute a crime involving moral turpitude (CIMT) or an aggravated felony (AF). And they do not, in and of themselves, constitute a separate independent ground of inadmissibility or deportability.

This new law would change that.

Relative to inadmissibility, which applies to those who entered the US unlawfully, usually those who are undocumented, this new law would trigger it even without a conviction. The text specifically covers admissions to committing the offense or its essential elements – something the current law already uses in other crime-based grounds. Practically, “admission” determinations are technical and typically occur in immigration/consular contexts, but the bill makes clear you don’t need a conviction to be found inadmissible. Beyond that, it would also cover alcohol and/or drug impairment offenses, and would apply no matter what your state calls its lesser impaired-driving offense. And finally, there is no built-in waiver. The new law adds a new inadmissibility ground under 8 USC § 1182(a)(2)(J), but does not list this new subsection in the associated §212(h) waiver language, so, as currently written, there would not be a specific waiver for a DUI-based inadmissibility.

Relative to deportability, which applies to those who entered the country lawfully, usually via a green card or visa, a conviction is required. The new deportability ground is triggered by a conviction for DUI/DWI (alcohol and/or drugs), regardless of misdemeanor/felony labels. A single conviction would suffice.

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If the new law passes, our immigrant clients face a serious risk of retroactive application to DUI admissions and convictions that occurred prior to passage of the new law, particularly given the aggressive tactics of the current administration.. Commentators and advocacy groups have warned that, if the new law is enacted, older DUI's could trigger removal and older admissions could trigger inadmissibility, even years later. There is precedent, and an argument to be made, against retroactive application to our immigrant clients, when it comes to removability, in the immigration court. See *Vartelas v. Holder*, 566 U.S. 257 (2012). In *Vartelas*, Roberts was against retroactive application. Thomas and Alito were for it. It is anyone guess how the 6-3 supermajority will handle it, this time around.

WHO WOULD BE AFFECTED

Undocumented and visa applicants: They could be refused admission or future benefits based on conviction or qualifying admission to a DUI/DWI-type offense.

Lawful permanent residents (LPR)/green-card holders: A DUI conviction – even a misdemeanor – could become a stand-alone deportability trigger, potentially landing LPR's in removal proceedings. Relief like cancellation of removal or asylum would still exist in statute, but the new charge itself makes the case far more precarious.

Everyone in DUI courts: Because the bill keys off “as defined under the law of the jurisdiction,” state-by-state label differences (DUI/DWI/OWI/OUI) won't shield a case. Drug-impairment DUIs are also explicitly included.

WHERE THINGS STAND TODAY (SEPTEMBER 9, 2025)

Status: H.R. 875 passed the House and is in the Senate Judiciary Committee. It is not law at this time.

What's next: The Senate would need to act; then any differences would be resolved, and the bill would go to the President. The White House has already publicly expressed support for H.R. 875. If it passes the Senate and reaches reconciliation with the House, the President will sign it into law.

PRACTICAL TAKEAWAYS FOR IMMIGRANT CLIENTS

Avoid a “DUI” label if legally and ethically possible. The bill's text is broad and looks to the offense definition, not the misdemeanor/felony label. Negotiated outcomes to non-DUI traffic offenses (e.g., reckless driving) may be critical. (Every case is different; this is strategy, not advice.)

Be wary of “admissions.” Because inadmissibility can be triggered by admissions, advise your immigrant clients to be cautious with immigration filings and during immigration interviews. Counsel clients not to volunteer statements about past DUI conduct without advice from immigration counsel.

Diversions/dismissals: A standard diversion that ends in no conviction still helps against deportability; but be careful – inadmissibility can still be litigated under an “admission” theory. Avoid guilty and any set of facts sufficient to warrant a finding of guilt, even if it leads to a diversionary disposition. Build records that avoid admissions to the essential elements of a DUI offense.

CONCLUSION

The Bottom Line: H.R. 875 would make any DUI/DWI (alcohol and/or drugs) an explicit immigration trigger – a new ground of inadmissibility even without a conviction in some scenarios, and a new ground of deportability upon conviction. It passed the U.S. House on June 26, 2025, and is now in the Senate. It is not law as of today, 9-9-2025. But the President has forecast an intent to sign it into law, if and when it passes the Senate and is then reconciled with the House. In my view, it is not a matter of IF, but WHEN. Be ready.

NCDD Summer Session 2025 - Denver, CO

