Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LEOCAL *v.* ASHCROFT, ATTORNEY GENERAL, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 03–583. Argued October 12, 2004—Decided November 9, 2004

Petitioner, a lawful permanent resident of the United States, pleaded guilty to two counts of driving under the influence of alcohol (DUI) and causing serious bodily injury in an accident, in violation of Florida law. While he was serving his prison sentence, the Immigration and Naturalization Service (INS) initiated removal proceedings pursuant to §237(a) of the Immigration and Nationality Act (INA), which permits deportation of an alien convicted of "an aggravated felony." INA §101(a)(43)(F) defines "aggravated felony" to include, *inter alia,* "a crime of violence [as defined in 18 U. S. C. §16] for which the term of imprisonment [is] at least one year." Title 18 U. S. C. §16(a), in turn, defines "crime of violence" as "an offense that has as an element the use . . . of physical force against the person or property of another," and §16(b) defines it as "any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense." An Immigration Judge and the Board of Immigration Appeals (BIA) ordered petitioner's deportation, and the Eleventh Circuit dismissed his petition for review, relying on its precedent that a conviction under Florida's DUI statute is a crime of violence under 18 U. S. C. §16.

Held: State DUI offenses such as Florida's, which either do not have a *mens rea* component or require only a showing of negligence in the operation of a vehicle, are not crimes of violence under 18 U. S. C. §16. Pp. 4–11.

(a) Section 16 requires this Court to look to the elements and nature of the offense of conviction in determining whether petitioner's conviction falls within its ambit. Florida's DUI statute, like similar statutes in many States, requires proof of causation but not of any

mental state; and some other States appear to require only proof that a person acted negligently in operating the vehicle. This Court's analysis begins with §16's language. See *Bailey* v. *United States,* 516 U. S. 137, 144. Particularly when interpreting a statute featuring as elastic a word as "use," the Court construes language in its context and in light of the terms surrounding it. See *Smith* v. *United States,* 508 U. S. 223, 229. Section 16(a)'s critical aspect is that a crime of violence involves the "use . . . of physical force against" another's person or property. That requires active employment. See *Bailey, supra,* at 145. While one may, in theory, actively employ *something* in an accidental manner, it is much less natural to say that a person actively employs physical force against another by accident. When interpreting a statute, words must be given their "ordinary or natural" meaning, *Smith, supra,* at 228, and §16(a)'s key phrase most naturally suggests a higher degree of intent than negligent or merely accidental conduct. Petitioner's DUI offense therefore is not a crime of violence under §16(a). Pp. 4–8.

(b) Nor is it a crime of violence under §16(b), which sweeps more broadly than §16(a), but does not thereby encompass all negligent conduct, such as negligent operation of a vehicle. It simply covers offenses that naturally involve a person acting in disregard of the risk that physical force might be used against another in committing an offense. The classic example is burglary, which, by nature, involves a substantial risk that the burglar will use force against a victim in completing the crime. Thus, §16(b) contains the same formulation found to be determinative in §16(a): the use of physical force against another's person or property. Accordingly, §16(b)'s language must be given an identical construction, requiring a higher *mens rea* than the merely accidental or negligent conduct involved in a DUI offense. Pp. 8–9.

(c) The ordinary meaning of the term "crime of violence," which is what this Court is ultimately determining, combined with §16's emphasis on the use of physical force against another (or the risk of having to use such force in committing a crime), suggests a category of violent, active crimes that cannot be said naturally to include DUI offenses. This construction is reinforced by INA §101(h), which includes as alternative definitions of "serious criminal offense" a "crime of violence, as defined in [§16]," §101(h)(2), and a DUI-causing-injury offense, §101(h)(3). Interpreting §16 to include DUI offenses would leave §101(h)(3) practically void of significance, in contravention of the rule that effect should be given to every word of a statute whenever possible, see *Duncan* v. *Walker,* 533 U. S. 167, 174. Pp. 9–11.

(d) This case does not present the question whether an offense requiring proof of the *reckless* use of force against another's person or

Syllabus

property qualifies as a crime of violence under §16. P. 11.
Reversed and remanded.

REHNQUIST, C. J., delivered the opinion for a unanimous Court.