

TN DUI Cases for Non-citizen Clients

LPR / Asylee / Refugee clients			
Immigration Priority: Avoid triggering inadmissibility Strategy: Avoid Reckless Endangerment. Plead to Reckless Driving if you can; DUI is also basically fine			
	DUI	Reckless Endangerment (misd)	Reckless Driving
Class	Not a CIMT or other	CIMT (moral turpitude)	Not a CIMT or other
Pros	No statutory effects: <ul style="list-style-type: none"> • Does not trigger inadmissibility • Does not trigger deportability 	<ul style="list-style-type: none"> • For immigration purposes, NONE (no advantages) 	No statutory effects
Cons	<ul style="list-style-type: none"> • Will make it harder to get citizenship within the next five years because it will count against “good moral character” • Could be used to show “habitual drunkenness,” which is grounds for inadmissibility (we don’t see this happening very often) 	<ul style="list-style-type: none"> • Triggers Inadmissibility • Can trigger deportability (any two CIMTs trigger deportability) • Makes client subject to mandatory detention if put in immigration custody 	<ul style="list-style-type: none"> • Looks better than DUI, but still counts as a negative in the “good moral character” analysis
Other considerations: Avoid felony Reckless Endangerment at all cost. Felony RE is an immigration “aggravated felony” and thus almost always causes deportation.			

Undocumented clients			
Immigration Priorities: 1. Avoid getting caught by ICE → high risk of ICE detainer if incarcerated 2. Preserve ability to get status in the future (if there are ever grounds) Strategy: Plead to RD if possible. If you have to do DUI, do the 200 hours CSW in lieu of the 48 hour jail time			
	DUI	Reckless Endangerment (misd)	Reckless Driving
Class	Not a CIMT or other	CIMT (Moral turpitude)	Not a CIMT or other
Pros	<ul style="list-style-type: none"> • Doesn’t trigger inadmissibility, meaning it’s not a <i>statutory</i> block to getting future status • Doesn’t trigger mandatory detention, so client is <i>statutorily</i> still eligible for an immigration bond 	<ul style="list-style-type: none"> • Can avoid jail time (risk of ICE detainer + deportation). For many clients, this is the most important thing. If client has no possible avenue to lawful status in the future, this is a viable option. 	<ul style="list-style-type: none"> • Avoids jail time • Looks better than DUI or RE for any discretionary considerations • Less probation means less time client is at risk of going to jail for a violation
Cons	<ul style="list-style-type: none"> • Jail time is the biggest risk factor for deportation due to ICE detainees • ICE hates DUIs, so it increases the chances that ICE will come after the client • Counts against client in immigration bond hearing (if in immigration custody) 	<ul style="list-style-type: none"> • Causes “inadmissibility” → it will be much harder to ever get lawful status in the future. • Triggers mandatory detention, so client will not be statutorily eligible for any immigration bond if placed in immigration custody 	<ul style="list-style-type: none"> • Looks better than a DUI, but will still count against client in a discretionary bond determination
Other considerations: Felony Reckless Endangerment is very bad. AVOID • The 200 hour substitution is allowed pursuant to TCA 55-10-402 (g) <i>in some counties</i>			