

**United States Court of Appeals  
For the First Circuit**

No. 99-2187

EDWIN EMILE,

Petitioner,

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BOUDIN, Circuit Judge. Edwin Emile, a native and citizen of Haiti, immigrated to the United States in 1971. In 1988, Emile was convicted in a Massachusetts state court of possession of a controlled substance. In 1990, he was again convicted, this time of indecent assault and battery on a child under fourteen, Mass. Gen. Laws ch. 265, § 13B (1998); the sentence was 350 days, of which 55 were served. In 1996, he was convicted once again of assault and battery and sentenced to a year in prison. Out of these convictions grew three efforts by the Immigration and Naturalization Service ("INS") to deport

On remand, the INS abandoned its request for removal based on the 1996 conviction and substituted a new basis: the 1990 conviction for indecent assault and battery on a child under fourteen. Although this conviction had earlier been known to the INS, it became more useful for removal purposes when Congress amended the Immigration and Nationality Act ("INA") in 1996 by adding "rape, or sexual abuse of a minor" to murder in the first item on the list of deportable "aggravated felony" offenses. See Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, § 321(a)(1), 110 Stat. 3009-546, - 627 (codified at 8 U.S.C. § 1101(a)(43)(A) (Supp.







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<sup>1</sup>Because



"sexual abuse of a minor," as proposed in the 1996 amendment,  
encompassed "sexual contact" offenses. 1999 WL 731793

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<sup>3</sup>See Drakes

the Board did not mention Taylor by name in this case, it effectively followed Taylor by relying upon the Massachusetts statute rather than on Emile's conduct as described in the police report. In substance, the Board concluded that section

13B

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<sup>5</sup>That serious conduct is involved might also be inferred

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238 F.3d 50,