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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EFRAIN FLORES-LUNA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-55034

Agency No. A035-551-706

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Efrain Flores-Luna, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order summarily affirming his appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction under 8 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

§ 1252. We review de novo whether a particular conviction constitutes an aggravated felony, *Randhawa v. Ashcroft*, 298 F.3d 1148, 1151 (9th Cir. 2002), and we deny the petition for review.

The IJ did not err in finding Flores-Luna removable as an aggravated felon under 8 U.S.C. § 1227(a)(2)(A)(iii) because his conviction under Cal. Penal Code § 496(a) categorically constitutes a theft offense and Flores-Luna was sentenced to a term of imprisonment of at least one year for his crime. *See* 8 U.S.C. § 1101(a)(43)(G). Contrary to Flores-Luna’s contention, a conviction under section 496(a) meets the intent requirement for this circuit’s generic definition of a “theft offense.” *See Randhawa*, 298 F.3d at 1153-54 (requisite intent may be inferred from offender’s knowledge that he or she possessed stolen property); *People v. Dishman*, 128 Cal. App. 3d 717, 721-722 (1982) (to obtain conviction under section 496(a), prosecution must prove defendant knew property was stolen).

Flores-Luna’s contention that section 496(a) is overbroad because it allows conviction for aiding and abetting is foreclosed by *Gonzales v. Duenas-Alvarez*, 549 U.S. 183 (2007).

PETITION FOR REVIEW DENIED.