

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARMANDO NARANJO-BARRAJAS,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

Nos. 05-76737  
07-72147

Agency No. A092-115-554

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted November 17, 2009\*\*

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

In these consolidated petitions for review, Armando Naranjo-Barrajas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ")

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\* 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).

decision denying his application for adjustment of status and a BIA order denying his motion to reopen alleging ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We grant the petitions for review and remand.

In No. 05-76737, the IJ denied Naranjo-Barrajas' adjustment of status application solely because at the time of his hearing the United States Citizenship and Immigration Services had not processed the I-130 visa petition submitted on his behalf by his United States citizen daughter, which has since been approved. We remand to the agency for reconsideration of Naranjo-Barrajas' adjustment application in light of the BIA's intervening decision in *Matter of Hashmi*, 24 I. & N. Dec. 785 (BIA 2009). *See generally INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

In No. 07-72147, the BIA concluded that Naranjo-Barrajas' prior counsel's failure to challenge the IJ's conclusion that Naranjo-Barrajas' conviction under California Penal Code § 273.5(a) is categorically a crime involving moral turpitude did not prejudice his appeal to the BIA from the IJ's decision denying his cancellation of removal application. The BIA, however, did not have the benefit of our intervening decision in *Morales-Garcia v. Holder*, 567 F.3d 1058, 1067 (9th Cir. 2009), and we, therefore, remand to the BIA for reconsideration of whether

prior counsel's performance prejudiced his appeal. *See generally Ventura*, 537 U.S. at 16.

**PETITIONS FOR REVIEW GRANTED; REMANDED.**