

FEB 24 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LEOCADIA MAGANA-MENDOZA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71129

Agency No. A096-342-951

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Leocadia Magana-Mendoza, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her application for cancellation of

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

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

removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo questions of law. *Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1126 (9th Cir. 2007).

We grant the petition for review and remand.

Magana-Mendoza is not ineligible for cancellation of removal for having been convicted of an aggravated felony because the record of conviction is inconclusive as to the controlled substance involved. *See id.* at 1130. Because neither the government nor the agency had the benefit of our intervening decision in *Sandoval-Lua*, we remand to the BIA for further proceedings consistent with that decision.

PETITION FOR REVIEW GRANTED; REMANDED.