

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

APR 02 2010

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

LORENZO LEDEZMA-SANDOVAL,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-77082

Agency No. A017-985-714

MEMORANDUM\*

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

Argued and Submitted December 4, 2006  
San Francisco, California

Before: D.W. NELSON and BERZON, Circuit Judges, and COWEN, Judge.\*\*

Lorenzo Ledezma-Sandoval petitions for review of a decision of the Board of Immigration Appeals (BIA) dismissing his appeal of a final order of removal.

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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 Honorable Robert E. Cowen, Senior United States Circuit Judge for the Third Circuit, sitting by designation.

The BIA erred in holding that Ledezma was removable as an aggravated felon by reason of his conviction for second-degree murder in 1981 because “8 U.S.C. § 1227(a)(2)(A)(iii) [providing that an alien convicted of an aggravated felony is deportable] does not apply to convictions . . . that occurred prior to November 18, 1988.” *Ledezma-Galicia v. Holder*, No. 03-73648, 2010 WL 1172469, at \*16 (9th Cir. Mar. 29, 2010). Because we hold that the 1981 conviction cannot serve as a basis for removal, we do not reach Ledezma’s alternative arguments regarding his eligibility for a waiver of that ground of removal.

We grant the petition and remand to the BIA for further proceedings.

**PETITION FOR REVIEW GRANTED; REMANDED.**