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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CESAR PEREZ-HERNANDEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-70432

Agency No. A077-323-561

MEMORANDUM*

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

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges

Cesar Perez-Hernandez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal.

We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law,

* 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).

Avila-Sanchez v. Mukasey, 509 F.3d 1037, 1039-40 (9th Cir. 2007), and we grant the petition for review and remand for further proceedings.

The agency concluded that Perez-Hernandez was ineligible for cancellation of removal because his conviction under Cal. Penal Code § 273a(b) was categorically a “crime of child abuse” within the meaning of 8 U.S.C. § 1227(a)(2)(E)(i). We subsequently held that a conviction under section 273a(b) is not categorically a crime of child abuse. *Fregozo v. Holder*, 576 F.3d 1030, 1034 (9th Cir. 2009). We therefore remand for application of the modified categorical analysis in light of the definition of “child abuse” set forth in *Matter of Velazquez-Herrera*, 24 I. & N. Dec. 503 (BIA 2008). *See id.* at 1040.

PETITION FOR REVIEW GRANTED; REMANDED.