

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 19 2011

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

LENNOX THOMAS,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

No. 09-72578

Agency No. A014-843-448

MEMORANDUM*

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

Submitted January 14, 2011**
Seattle, Washington

Before: REINHARDT, GRABER, and PAEZ, Circuit Judges.

The petitioner was ordered removed under INA § 237(a)(2)(A)(iii) as an aggravated felon. The predicate felony conviction upon which that order relied, however, occurred in 1984, so § 237(a)(2)(A)(iii) does not apply. *Ledezma-Galicia v. Holder*, No. 03-73648, 2010 WL 5174979, at *16 (9th Cir. Dec. 22,

* 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).

2010). We therefore grant the petition and remand on this basis, and need not reach the question whether the BIA properly applied the modified categorical approach.

Petition GRANTED and REMANDED.