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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RICARDO MURRIETA-ESPINO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 04-74449

Agency No. A017-182-468

MEMORANDUM*

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

Submitted February 15, 2011**

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

Ricardo Murrieta-Espino, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order sustaining the government’s appeal from an immigration judge’s decision. We have jurisdiction under 8 U.S.C. § 1252, and we grant the petition for review and remand for further proceedings.

* 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).

The agency determined that Murrieta-Espino was removable under the aggravated felony ground of deportation, 8 U.S.C. § 1227(a)(2)(A)(iii), based on his 1986 conviction for violating California Penal Code § 288(a). Subsequent to the agency's decision in this case, we held in *Ledezma-Galicia v. Holder*, Nos. 03-73648, 04-35048, 2010 WL 5174979 (9th Cir. Dec. 22, 2010), that 8 U.S.C. § 1227(a)(2)(A)(iii) does not apply to convictions that occurred prior to November 18, 1988. We therefore grant the petition for review and remand to the agency in light of *Ledezma-Galicia*.

In light of our disposition, we do not reach Murrieta-Espino's remaining contentions.

PETITION FOR REVIEW GRANTED, REMANDED.