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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>LUIS HERNANDEZ-GARCIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 06-71171

Agency No. A013-588-913

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.

Luis Hernandez-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. 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 petitioner was removable under the aggravated felony ground of deportation, 8 U.S.C. § 1227(a)(2)(A)(iii), based on his 1987 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*.

PETITION FOR REVIEW GRANTED; REMANDED.