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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RENE WILFREDO ALVARADO UMANZOR,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-71328

Agency No. A090-798-922

MEMORANDUM*

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

Submitted April 10, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Rene Wilfredo Alvarado Umanzor, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s removal order. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand for further proceedings.

Alvarado Umanzor contends that his conviction for sexual abuse in the first degree in violation of Oregon Revised Statutes § 163.427 does not categorically constitute sexual abuse of a minor as defined in 8 U.S.C. § 1101(a)(43)(A) and that he is therefore not removable as an alien convicted of an aggravated felony after admission under 8 U.S.C. § 1227(a)(2)(A)(iii). We reject the government's contention that Alvarado Umanzor failed to exhaust this issue. *Kaganovich v. Gonzales*, 470 F.3d 894, 897 (9th Cir. 2006) (“Petitioner’s failure to elaborate on [an] argument in his brief to the BIA is immaterial to our jurisdiction.”).

Because the BIA did not address whether Alvarado Umanzor’s state conviction was categorically an aggravated felony, we remand to the BIA to allow it to address this contention in the first instance. *See Fregozo v. Holder*, 576 F.3d 1030, 1039 (9th Cir. 2009).

In light of our disposition, we do not address Alvarado Umanzor’s remaining contentions.

PETITION FOR REVIEW GRANTED; REMANDED.