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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NOT FOR PUBLICATION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>BENILDA SAY; JOSE ONG,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p> |
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Nos. 05-71872
05-71873

Agency Nos. A079-789-913
A079-789-922

MEMORANDUM*

On Petition for Review of Orders of the
Board of Immigration Appeals

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

In these consolidated petitions for review, Benilda Say and Jose Ong, natives and citizens of the Philippines, petition for review for the Board of Immigration Appeals' ("BIA") orders summarily affirming an immigration judge's decision

* 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).

denying their applications for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We grant the petitions for review and remand.

The government requests that we grant Ong's petition for review and remand to allow the BIA to address in the first instance petitioners' contention that Ong's conviction falls within the petty offense exemption at 8 U.S.C.

§ 1182(a)(2)(ii). The government also requests that we grant Say's petition for review and remand to allow the BIA to clarify whether Say's application was denied on statutory or discretionary grounds. We agree that remand of both petitions on these grounds is appropriate. *See INS v. Ventura*, 537 U.S. 12, 16-18, (2002) (per curiam) (remand appropriate where issues were not considered by the BIA); *Lanza v. Ashcroft*, 389 F.3d 917, 931-32 (9th Cir. 2004) (remand appropriate when it is unclear whether agency relied on a reviewable ground).

PETITIONS FOR REVIEW GRANTED; REMANDED.