NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CESAR MUNOZ-RUVALCABA, AKA Cesar Munoz-Rubalcava, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 12-70422 Agency No. A098-033-938 MEMORANDUM[*]

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

Argued and Submitted October 6, 2014[**]
Phoenix, Arizona

Before: D.W. NELSON, SILVERMAN, and M. SMITH, Circuit Judges.

Cesar Munoz-Ruvalcaba, a native and citizen of Mexico, petitions for review

of a final order of removal. The Board of Immigration Appeals held that petitioner

was ineligible for cancellation of removal because his conviction for solicitation to

take the identity of another in violation of Arizona Revised Statute § 1002(A) and

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[*]   This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

§ 13-2008(A) involved moral turpitude. We have jurisdiction to consider whether the conviction involves moral turpitude. *Marmolejo-Campos v. Holder*, 558 F.3d 903, 907 (9th Cir. 2009) (en banc). We grant the petition for review and remand to the Board.

The Board made two errors in its ruling determining that petitioner was convicted of a crime involving moral turpitude. First, the Board used the wrong version of the statute, Arizona Revised Statute § 13-2008. Petitioner's offense was committed in 2007, yet the Board used a version of the statute that was not effective until May 1, 2008.

Second, in its discussion of count 40, the count to which, as amended, the petitioner plead guilty (solicitation to commit taking the identity of another) the Board mistakenly quoted the allegations of count 41 (forgery). The government concedes that this error requires remand.

We grant the petition for review and remand for the Board to reconsider the categorical and modified categorical approaches using the correct version of the statute of conviction and the correct count of conviction.

PETITION FOR GRANTED and REMANDED.