

OCT 23 2014

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NOE PEREZ-HERNANDEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-71095

Agency No. A089-351-885

MEMORANDUM\*

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

Argued and Submitted August 12, 2014  
San Francisco, California

Before: KOZINSKI, Chief Judge, and SILVERMAN and CLIFTON, Circuit  
Judges.

Noe Perez-Hernandez challenges the Board of Immigration Appeals’  
decision upholding the immigration judge’s order finding him removable under  
section 237(a)(2)(B)(i) of the Immigration and Nationality Act, 8 U.S.C. §  
1227(a)(2)(B)(i), based on his conviction for offering to transport a controlled

---

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

substance under Nevada Revised Statutes § 453.321. We have jurisdiction pursuant to 8 U.S.C. § 1252(a)(2)(D), and we **REMAND**.

Following its decision in this case, the BIA decided *In re Davey*, 26 I. & N. Dec. 37, 40 (BIA 2012), in which it “conclude[d] that for purposes of section 237(a)(2)(B)(i), a crime ‘involves’ possession of 30 grams or less of marijuana for personal use if the particular acts that led to the alien’s conviction were closely related to such conduct.” Given that the Fourth Amended Information charged Perez-Hernandez with offering to transport 30 grams or less of marijuana for his own use, we remand for reconsideration in light of *In re Davey*.

**PETITION FOR REVIEW GRANTED; REMANDED.**