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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AURELIO SALDIVAR-TORRES,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70458

Agency No. A014-577-244

MEMORANDUM*

On Petition for Review of an Order of the
Department of Homeland Security

Submitted January 20, 2016**

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

Aurelio Saldivar-Torres, a native and citizen of Mexico, petitions for review of the Department of Homeland Security's February 19, 2014, order reinstating his 1987 order of deportation. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

Saldivar-Torres contends that he is a citizen of the United States. We conclude that the administrative record presents a genuine issue of material fact as to whether Saldivar-Torres' United States citizen father satisfied the physical presence requirements necessary for Salvidar-Torres to acquire derivative citizenship at birth. Accordingly, we transfer these proceedings to the United States District Court for the federal district in which Saldivar-Torres has his residence for a de novo hearing on Saldivar-Torres' citizenship. *See* 8 U.S.C. § 1252(b)(5)(B); *Ayala-Villanueva v. Holder*, 572 F.3d 736, 738, 740 (9th Cir. 2009). As the most recent information in Saldivar-Torres' file indicates that he resides in the Central District of California, we transfer to that District Court. We express no view as to the merits of Saldivar-Torres' claim to United States citizenship. We hold the petition for review in abeyance pending the District Court's decision.

We take judicial notice of the certified administrative record of Saldivar-Torres' 2002 removal proceedings, filed in this case on July 25, 2014, by the Executive Office for Immigration Review. *See Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (taking judicial notice of agency records).

**MATTER TRANSFERRED; PETITION FOR REVIEW HELD IN
ABEYANCE.**