

MAR 31 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE ESPINOZA-LUGO, AKA Jorge
Espinoza, AKA Jorge Espinosa Lugo,
AKA Jorge Espinoza Lugo,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 12-72465

Agency No. A046-990-134

MEMORANDUM*

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

Argued November 21, 2014
Submitted December 30, 2014
San Francisco, California

Before: THOMAS, Chief Judge, CHRISTEN, Circuit Judge, and SEABRIGHT,**
District Judge.

Jorge Espinoza-Lugo, native and citizen of Mexico, was convicted of
accessory to a felony under California Penal Code § 32. An Immigration Judge

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

** The Honorable J. Michael Seabright, District Judge for the U.S.
District Court for the District of Hawaii, sitting by designation.

ordered him removed to Mexico, determining his conviction to be an aggravated felony because it is an offense relating to obstruction of justice under 8 U.S.C. § 1101(a)(43)(S). Applying the interpretation of “obstruction of justice” articulated in *In re Valenzuela Gallardo*, 25 I. & N. Dec. 838 (BIA 2012), the Board of Immigration Appeals dismissed Espinoza-Lugo’s appeal. Espinoza-Lugo now petitions for review.¹

We have jurisdiction pursuant to 8 U.S.C. § 1252(a)(2)(D). In light of our decision in *Valenzuela Gallardo v. Lynch*, No. 12-72326, we remand to the Board for either application of the agency interpretation announced in *In re Espinoza Gonzalez*, 22 I. & N. Dec. 889 (BIA 1999), or consideration of a new construction of 8 U.S.C. § 1101(a)(43)(S).

PETITION GRANTED IN PART, AND REMANDED.

¹ The parties are familiar with the facts, so we do not recount them in detail.

FILED

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SEABRIGHT, District Judge, dissenting:

I respectfully dissent for the reasons stated in my dissent from the majority

Opinion in *Valenzuela Gallardo v. Lynch*, No. 12-72326.