

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 20 2017

FOR THE NINTH CIRCUIT

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

RAFAEL ANTONIO RODRIGUEZ,

No. 10-73234

Petitioner,

Agency No. A073-962-583

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Rafael Antonio Rodriguez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for cancellation of

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand.

The BIA did not have the benefit of *Lozano-Arredondo v. Sessions*, 866 F.3d 1082 (9th Cir. 2017), which set aside the BIA’s interpretation of 8 U.S.C. § 1229b(b)(1)(C) in *Matter of Cortez Canales*, 25 I. & N. Dec. 301 (BIA 2010) (“within five years of admission” requirement for deportability on the basis of a crime involving moral turpitude conviction did not apply to cancellation of removal for non-permanent residents), when it denied cancellation of removal. Thus, we remand for further proceedings consistent with that disposition.

We do not reach the government’s contentions regarding Rodriguez’s alleged ineligibility for cancellation of removal under *Mancilla-Delafuente v. Lynch*, 804 F.3d 1262 (9th Cir. 2015). *See Navas v. INS*, 217 F.3d 646, 658 n.16 (9th Cir. 2000).

PETITION FOR REVIEW GRANTED; REMANDED.