

FILED

JUN 21 2018

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GUILLERMO BECERRIL-
GUADARRAMA,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 14-74030

Agency No. A077-271-900

MEMORANDUM*

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

Submitted October 20, 2016**

San Francisco, California

Submission Vacated and Deferred

October 20, 2016

Resubmitted for Decision June 18, 2018

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

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

Before: TASHIMA and M. SMITH, Circuit Judges, and KORMAN,^{***}
District Judge.

Guillermo Becerril-Guadarrama petitions for review of a decision of the Board of Immigration Appeals (“BIA”) dismissing his appeal of an order of removal. The BIA determined that Becerril-Guadarrama’s conviction for felony coercion under Nevada Revised Statute § 207.190(2)(a)¹ was categorically a crime of violence under 18 U.S.C. § 16(a).² Therefore, the BIA concluded that Becerril-Guadarrama had an aggravated felony conviction that rendered him removable pursuant to 8 U.S.C. § 1227(a)(2)(A)(iii).³

This Court recently held that Nevada felony coercion is not categorically a “crime of violence” under the United States Sentencing Guidelines. *See United States v. Edling*, ___ F.3d ___, No. 16-10457, 2018 WL 2752208, at *6 (9th Cir. June

^{***} The Honorable Edward R. Korman, Senior United States District Judge for the Eastern District of New York, sitting by designation.

¹ The BIA concluded that Nevada’s coercion statute was divisible into misdemeanor and felony offenses, and that Becerril-Guadarrama’s “judgment of conviction clearly specifie[d] that he was convicted of felony coercion.”

² The BIA also concluded that Nevada felony coercion was a crime of violence under 18 U.S.C. § 16(b), but the Supreme Court has since held that § 16(b) is unconstitutionally vague. *See Sessions v. Dimaya*, 138 S. Ct. 1204, 1223 (2018).

³ The Immigration and Nationality Act defines “aggravated felony” to include any “crime of violence . . . for which the term of imprisonment [is] at least one year.” 8 U.S.C. § 1101(a)(43)(F).

8, 2018). The *Edling* court explained that the “physical force” element of the Nevada statute proscribes more behavior than the “violent force” necessary to satisfy the “physical force” standard set forth in *Johnson v. United States*, 559 U.S. 133, 140 (2010). *Edling*, 2018 WL 2752208, at *5. *Johnson*’s standard for “physical force” also applies to the crime of violence definition in 18 U.S.C. § 16(a). See *Rodriguez-Castellon v. Holder*, 733 F.3d 847, 853–54 (9th Cir. 2013). Hence, because the Nevada felony coercion statute criminalizes more conduct than the generic federal offense, Becerril-Guadarrama’s conviction does not categorically constitute a crime of violence. We therefore **GRANT** the petition for review and **VACATE** the order of removal.

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The petition is **GRANTED**.