

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 19 2018

FOR THE NINTH CIRCUIT

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

NELSON JUVINI GARCIA, AKA Nelson
Garcia Juvini,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 15-71132

Agency No. A046-056-905

MEMORANDUM*

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

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Nelson Juvini Garcia, a native and citizen of Honduras, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review de novo questions of law. *Padilla-Martinez v. Holder*, 770 F.3d 825, 830 (9th Cir. 2014). We grant the petition for review.

The agency ordered Garcia removed for having been convicted of an aggravated felony crime of violence as described in 18 U.S.C. § 16(b). However, the BIA did not have the benefit of the Supreme Court's decision in *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), holding that 18 U.S.C. § 16(b) is impermissibly vague. Accordingly, we remand to the BIA to consider Garcia's removability in light of that decision.

Respondent's motion to take judicial notice (Docket Entry No. 17) is denied as moot.

PETITION FOR REVIEW GRANTED; REMANDED.