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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>IGNACIO GOMEZ-GOMEZ,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 04-71329

Agency No. A76-605-679

MEMORANDUM *

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

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Ignacio Gomez-Gomez, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) 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 9th Cir. R. 36-3.

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

removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing de novo, *Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1126 (9th Cir. 2007), we grant the petition and remand for further proceedings.

The BIA erred in concluding that Gomez-Gomez was convicted of two crimes involving moral turpitude. With respect to the 1997 offense, “[w]e have before us a record of conviction that is inconclusive,” *id.* at 1132, regarding whether the charge resulted in a “cite and release.” Gomez-Gomez has therefore met his burden of showing that he was not convicted of two crimes involving moral turpitude. *Id.* We remand for reconsideration of his application for cancellation of removal and, if necessary, his eligibility for voluntary departure.

PETITION FOR REVIEW GRANTED; REMANDED.