

APR 20 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**JOSE ANTONIO GARCIA-COREAS,**

Petitioner,

v.

**ERIC H. HOLDER, Jr., Attorney  
General,**

Respondent.

No. 06-71835

Agency No. A034-708-284

**MEMORANDUM\***

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

Submitted March 11, 2009\*\*  
San Francisco, California

Before: **KOZINSKI**, Chief Judge, **NOONAN**, Circuit Judge, and  
**EDMUNDS**,\*\*\* District Judge.

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\* 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. Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Nancy G. Edmunds, United States District Judge for the Eastern District of Michigan, sitting by designation.

California Penal Code § 69 is not limited to the use or threat of force against the person or property of another, and is therefore not categorically a crime of violence under 18 U.S.C. § 16. Jordison v. Gonzales, 501 F.3d 1134, 1135 (9th Cir. 2007). Because the state offense is missing this element of the generic offense, the modified categorical approach is inapplicable. Navarro-Lopez v. Gonzales, 503 F.3d 1063, 1073 (9th Cir. 2007) (en banc).

The petition is **GRANTED**; the removal order of the Board of Immigration Appeals is **VACATED**.