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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MELVIN WILFREDO ALVARADO PONCE,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-72096

Agency No. A037-764-037

MEMORANDUM\*

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

Submitted November 16, 2010\*\*

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Melvin Wilfredo Alvarado Ponce, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under

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

8 U.S.C. § 1252. We review de novo questions of law, *Khan v. Holder*, 584 F.3d 773, 776 (9th Cir. 2009), and we grant the petition for review and remand.

Because Alvarado Ponce was charged as inadmissible under 8 U.S.C. § 1182(a)(2)(A)(i)(I) upon his return to the United States, the agency erred in finding that he was ineligible for former section 212(c) relief. *See* 8 U.S.C. § 1182(c) (repealed 1996); *Abebe v. Mukasey*, 554 F.3d 1203, 1205 (9th Cir. 2009) (en banc) (per curiam) (“Under its plain language, section 212(c) gives the Attorney General discretion to grant lawful permanent residents relief only from *inadmissibility* - not deportation.”) (emphasis in original). We remand to the agency to allow Alvarado Ponce to apply for former section 212(c) relief.

**PETITION FOR REVIEW GRANTED; REMANDED.**