

OCT 04 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THAVY CHUM,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-70972

Agency No. A025-401-862

MEMORANDUM*

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

Submitted September 27, 2016**

Before: TASHIMA, SILVERMAN, and M. SMITH, Circuit Judges.

Thavy Chum, a native and citizen of Cambodia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's order of removal. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review, and remand.

* 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).

Chum was convicted of accessory to a felony under California Penal Code § 32. Applying the interpretation of “obstruction of justice” articulated in *Matter of Valenzuela Gallardo*, 25 I. & N. Dec. 838 (BIA 2012), the BIA concluded that Chum was removable for having committed an aggravated felony under 8 U.S.C. § 1227(a)(2)(A)(iii), because her conviction was for “an offense relating to obstruction of justice” under 8 U.S.C. § 1101(a)(43)(S).

In light of our decision in *Valenzuela Gallardo v. Lynch*, 818 F.3d 808 (9th Cir. 2016), we remand to the BIA for either application of the agency interpretation announced in *Matter of Espinoza-Gonzalez*, 22 I. & N. Dec. 889 (BIA 1999), or consideration of a new construction of 8 U.S.C. § 1101(a)(43)(S).

In light of this disposition, we do not reach Chum’s remaining contentions.

PETITION FOR REVIEW GRANTED; REMANDED.