

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-60293

United States Court of Appeals
Fifth Circuit

FILED

December 19, 2014

CECILIO MENDEZ MENDEZ,

Petitioner

Lyle W. Cayce
Clerk

v.

ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A037-001-280

Before REAVLEY, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Order of the Board of Immigration Appeals is reviewed and its order of removal is vacated for the following reason.

The record shows a full concession, by an attorney at the initial hearing, of all charges for removability made by the government in its Notice to Appear. However, both the IJ and BIA granted the removal because, by common sense, they saw the conduct of Mendez to be a crime for which he was convicted. The

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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government does not contend that the initial concession should affect our decision.

The problem is that the record shows no conviction of an aggravated felony – or of the sexual abuse of a minor. We may know that the conduct of Mendez would support a conviction of a crime charged, but none of the statutes require violence or force or sexual abuse of a minor for conviction. Therefore, it is not shown that any conviction met the categorical compatibility required to justify Mendez’s deportation.

Review GRANTED and Order of Removal VACATED.