NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

IZUMI SHIBATA,

     Petitioner,

 v.

LORETTA E. LYNCH, Attorney General,

     Respondent.

No. 12-72157

Agency No. A043-275-647

MEMORANDUM[*]

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

Argued and Submitted November 2, 2015
Pasadena, California

Before: SCHROEDER, PREGERSON, and FRIEDLAND, Circuit Judges.

  Petitioner Izumi Shibata is a native and citizen of Japan and legal permanent

resident of the United States. Shibata petitions for review of the Board of

Immigration Appeals' ("BIA") order denying his application for cancellation of

removal.

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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 BIA held him removable as a person convicted of an "aggravated felony" pursuant to 8 U.S.C. § 1227(a)(2)(A)(iii). The definition of "aggravated felony" includes "a crime of violence . . . for which the term of imprisonment [is] at least one year." 8 U.S.C. § 1101(a)(43)(F).

Shibata entered a nolo contendere plea to the charge of assault with a deadly weapon, in violation of California Penal Code § 245(a)(1). The charge arose out of an attempted carjacking in which Shibata struck the driver with nunchucks.

We have expressly held that assault with a deadly weapon in violation of California Penal Code § 245(a)(1) is categorically a crime of violence as defined by 18 U.S.C. § 16(a). *United States v. Grajeda*, 581 F.3d 1186, 1196–97 (9th Cir. 2009); *see also United States v. Jimenez-Arzate*, 781 F.3d 1062, 1063 (9th Cir. 2015) (reaffirming *Grajeda*). Shibata's four-year prison sentence also satisfied the requirement for a term of imprisonment for at least one year. Therefore, the BIA properly determined that Shibata was removable as charged under 8 U.S.C. § 1227(a)(2)(A)(iii), and ineligible for cancellation of removal because of his assault conviction.

The petition for review is **DENIED**.