

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

JUN 15 2018

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

AGUSTIN OSEGURA,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 15-71528

Agency No. A096-047-667

MEMORANDUM\*

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

Submitted June 12, 2018\*\*

Before: RAWLINSON, CLIFTON, and NGUYEN, Circuit Judges.

Agustin Osegura, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's removal order denying adjustment of status. We have jurisdiction under 8 U.S.C. §1252. We review de novo questions of law. *Padilla-*

---

\* 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).

*Martinez v. Holder*, 770 F.3d 825, 830 (9th Cir. 2014). We grant the petition for review.

The agency denied Osegura's application for adjustment of status, concluding he was ineligible for having committed an aggravated felony crime of violence as described in 18 U.S.C. § 16(b). However, the BIA did not have the benefit of our decision in *Dimaya v. Lynch*, 803 F.3d 1110 (9th Cir. 2015), recently affirmed by the Supreme Court decision in *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), holding that 18 U.S.C. § 16(b) is impermissibly vague. Accordingly, we remand to the BIA to consider Osegura's eligibility for relief in light of those decisions.

**PETITION FOR REVIEW GRANTED; REMANDED.**