

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-60139

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BERNARDINO BERRUN-PLATA,

Petitioner,

versus

JOHN ASHCROFT,  
ATTORNEY GENERAL,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A37-208-858  
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March 7, 2002

Before REAVLEY, WIENER, and PARKER, Circuit Judges.

PER CURIAM:\*

Bernardino Berrun-Plata petitions for review of an order of the Board of Immigration Appeals (BIA) holding that Berrun-Plata's state conviction for felony driving while intoxicated was an aggravated felony warranting his removal from this country. The respondent has moved to dismiss the petition for review and to remand the case to the BIA for reconsideration in light of United States v. Chapa-Garza, 243 F.3d 921, 927 (5th Cir. 2001). Berrun-Plata has not replied to the respondent's motion to remand.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Berrun-Plata's petition for review is GRANTED. The order of the BIA is VACATED, and this case is REMANDED to the BIA for disposition consistent with Chapa-Garza, 243 F.3d at 927. All other outstanding motions are DENIED.