

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60044

SERGIO MARTINEZ-RAMIREZ,

Petitioner,

versus

JOHN ASHCROFT,
ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A39-284-594

March 7, 2002

Before REAVLEY, WIENER, and PARKER, Circuit Judges.

PER CURIAM:*

Sergio Martinez-Ramirez petitions for review of an order of the Board of Immigration Appeals (BIA) holding that Martinez-Ramirez'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). Martinez-Ramirez has replied to the respondent's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion to remand. He does not dispute the respondent's contention that this case should be remanded to the BIA, but he does argue that his petition for review should be granted rather than dismissed.

Martinez-Ramirez'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.