

09-60 CARACHURI-ROSENDO V. HOLDER

DECISION BELOW:570 F.3d 263

LOWER COURT CASE NUMBER: 07-61006

QUESTIONS PRESENTED:

Under the Immigration and Nationality Act, a lawful permanent resident who has been "convicted" of an "aggravated felony" is ineligible to seek cancellation of removal. 8 U.S.C. § 1229b(a)(3). The courts of appeals have divided 4-2 on the following question presented by this case:

Whether a person convicted under state law for simple drug possession (a federal law misdemeanor) has been "convicted" of an "aggravated felony" on the theory that he could have been prosecuted for recidivist simple possession (a federal law felony), even though there was no charge or finding of a prior conviction in his prosecution for possession.

CERT. GRANTED 12/14/2009