

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1098

BARINDER SINGH MARYA,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A45-602-866)

Submitted: July 20, 2005

Decided: August 11, 2005

Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Alfred L. Robertson, Jr., STEPHEN J. SHEEHY, III & ASSOCIATES, Annandale, Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney General, M. Jocelyn Lopez Wright, Assistant Director, Bryan S. Beier, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Barinder Singh Marya, a native and citizen of India, seeks review of an order of the Board of Immigration Appeals (Board) affirming without opinion the immigration judge's decision ordering Marya's removal for having been convicted of a crime of domestic violence under 8 U.S.C. § 1227(a)(2)(E)(i) (2000). We have reviewed the administrative record and conclude that the Board and the immigration judge did not err in finding that Marya's conviction for assault and battery of a family member, in violation of Virginia Code § 18.2-57.2 (Michie 2004), constituted a crime of domestic violence under the immigration statutes and therefore made Marya subject to removal.

We also note that although Marya's conviction was amended to simple assault, Marya has not shown that the amendment was related to or called into question the integrity of the merits of his original conviction. Thus, his original conviction may be considered for immigration purposes. Cf. Yanez-Popp v. INS, 998 F.2d 231, 235 (4th Cir. 1993) ("[U]nless a conviction is vacated on its merits, a revoked state conviction is still a 'conviction' for federal immigration purposes."); see also In re Pickering, 23 I. & N. Dec. 621, 624 (BIA 2003) ("If, however, a court vacates a conviction for reasons unrelated to the merits of the underlying criminal proceedings, the respondent remains 'convicted' for

immigration purposes."). No remand for further proceedings is necessary.

We accordingly deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED