

SEP 07 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VICTOR GARCIA-DE LA ROSA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-73292

Agency No. A090-031-730

MEMORANDUM*

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

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Victor Garcia-De La Rosa, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law and constitutional claims, *Sandoval-Luna v.*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Mukasey, 526 F.3d 1243, 1246 (9th Cir. 2008), and we deny the petition for review.

Garcia-De La Rosa does not challenge the agency's determination that he is removable under 8 U.S.C. § 1227(a)(2)(A)(iii) based on his 1991 conviction for lewd or lascivious acts with a child under 14 years of age in violation of California Penal Code § 288(a).

The agency determined that Garcia-De La Rosa is ineligible for relief under former section 212(c), 8 U.S.C. § 1182(c) (repealed 1996), because his ground of removability lacks a statutory counterpart in a ground of inadmissibility. *See* 8 C.F.R. § 1212.3(f)(5). Garcia-De La Rosa's legal and constitutional challenges to this determination are foreclosed by *Abebe v. Mukasey*, 554 F.3d 1203, 1207 & 1208 n.7 (9th Cir. 2009) (en banc).

In light of our disposition, we need not address Garcia-De La Rosa's remaining contentions.

PETITION FOR REVIEW DENIED.