FILED

SEP 27 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AUDON GRAGEOLA-BERUMEN, a.k.a. Audon Berumen Grageola, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 07-70153 Agency No. A041-320-065 MEMORANDUM[*]

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

Submitted September 13, 2010[**]

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Audon Grageola-Berumen, 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.

---

[*] 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).

We review de novo questions of law and constitutional claims, *Khan v. Holder*, 584 F.3d 773, 776 (9th Cir. 2009), and we deny the petition for review.

Grageola-Berumen does not challenge the agency's determination that he is removable under 8 U.S.C. § 1227(a)(2)(A)(iii) based on his 1996 conviction for continuous sexual abuse of a child under 14 years of age in violation of California Penal Code § 288.5.

The agency determined that Grageola-Berumen is ineligible for relief under former section 212(c), 8 U.S.C. § 1182(c) (repealed 1996), because his ground of removability lacks a statutory counterpart in a ground of inadmissibility.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

The agency did not err in concluding that Grageola-Berumen's sexual abuse of a minor aggravated felony conviction rendered him ineligible for relief pursuant to 8 U.S.C. § 1182(h). *See Alvarez-Barajas v. Gonzales*, 418 F.3d 1050, 1055 (9th Cir. 2005).

The government's March 12, 2008, motion to hold this case in abeyance is denied as moot.

PETITION FOR REVIEW DENIED.