

SEP 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

REGULO VAZQUEZ GARCIA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73072

Agency No. A096-052-420

MEMORANDUM*

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

Submitted August 10, 2010**

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

Regulo Vazquez Garcia, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal and his request for voluntary departure. We have jurisdiction under 8

* 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).

U.S.C. § 1252. We review de novo questions of law, *Rendon v. Mukasey*, 520 F.3d 967, 971 (9th Cir. 2008), and we deny in part and dismiss in part the petition for review.

The agency properly denied Vazquez Garcia's applications for cancellation of removal and voluntary departure because the conviction documents establish that his conviction under California Health and Safety Code § 11351 constitutes a controlled substance offense and an aggravated felony. *See* 8 U.S.C.

§§ 1101(f)(8), 1229b(b)(1)(C); *see also Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 876 (9th Cir. 2003).

Vazquez Garcia's contention that his conviction falls outside the ten-year period preceding his application for cancellation of removal was not presented before the BIA, and therefore is not exhausted. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (court lacks jurisdiction to review contentions not raised before the agency).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.