

APR 17 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FLORENCIO ESQUIVEL-LARA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-72633

Agency No. A090-067-700

MEMORANDUM*

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

Argued and Submitted April 9, 2014
San Francisco, California

Before: SCHROEDER and CALLAHAN, Circuit Judges, and PRATT, Senior
District Judge.**

Petitioner, Florencio Esquivel-Lara, a native and citizen of Mexico, seeks
review of the decision of the Board of Immigration Appeals (“BIA”) that he was

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

** The Honorable Robert W. Pratt, Senior United States District Judge
for the Southern District of Iowa, sitting by designation.

not eligible for adjustment of status. To qualify, he had to have been “admitted” within the meaning of 8 U.S.C. § 1255(a).

Petitioner had previously adjusted his status to that of a temporary resident, but failed to apply for permanent resident status within forty-three months as required by 8 U.S.C. § 1255a(b)(2)(C). The parties now agree that this case is controlled by our court’s recent decision in *United States v. Hernandez-Arias*, ___ F.3d ___, 12-50193, 2014 WL 1099414 (9th Cir. March 21, 2014), where we held that such failure to apply for adjustment to permanent residence results in reversion to the prior “unadmitted” status.

Accordingly, the petition must be **DENIED**.