

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 20 2010

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

ALEJANDRO HIGINIO VALDIVIEZO-  
AGUILAR, aka Alex Higinio Valdiviezo-  
Aguilar,  
  
Petitioner,  
  
v.  
  
ERIC H. HOLDER, Jr., Attorney General,  
  
Respondent.

No. 06-71787

Agency No. A026-975-077

MEMORANDUM\*

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

Submitted October 5, 2010\*\*  
Pasadena, California

Before: CUDAHY,\*\*\* WARDLAW and W. FLETCHER, Circuit Judges.

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\* 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).

\*\*\* The Honorable Richard D. Cudahy, Senior United States Circuit Judge for the Seventh Circuit, sitting by designation.

Alejandro Higinio Valdiviezo-Aguilar petitions for review of the decision of the Board of Immigration Appeals (BIA), which affirmed the Immigration Judge's (IJ's) conclusion that he is removable under INA § 212(a)(2)(A)(i)(II) as an alien convicted of committing an offense "relating to a controlled substance." The IJ also determined that Valdiviezo-Aguilar is removable under INA § 212(a)(7)(A)(i)(I) as an alien present in the United States and not in possession of any valid entry document. Valvidezo-Aguilar did not contest that basis for finding removability before the BIA; nor does he challenge it in his petition for review before us. Because Valdiviezo-Aguilar is removable in any event under INA § 212(a)(7)(A)(i)(I), we would be unable to provide any effective relief even if we were to decide the merits of his § 212(a)(2)(A)(i)(II) claim in his favor. Accordingly, Valdiviezo-Aguilar's petition for review is moot, and must be dismissed. *See Equal Employment Opportunity Comm'n v. Fed. Express Corp.*, 558 F.3d 842, 846-47 (9th Cir. 2009) (quoting *Pub. Util. Comm'n v. FERC*, 100 F.3d 1451, 1458 (9th Cir. 1996)).

**DISMISSED.**