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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAVIER DOMINGUEZ-HUIZAR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-71213

Agency No. A077-132-009

MEMORANDUM*

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

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Javier Dominguez-Huizar, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order sustaining the Department of Homeland Security’s appeal from an immigration judge’s decision granting Dominguez-Huizar’s application for adjustment of status. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review de novo claims of due process violations, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005), and we deny the petition for review.

Dominguez-Huizar's claim that the BIA denied him an opportunity to address the intervening case law on which it based its decision is not supported by the record. It follows that his due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on a due process claim).

Any pending motions are denied as moot.

PETITION FOR REVIEW DENIED.