

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

MAR 16 2012

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

CARLOS MARIE PALAFOX-REYES,  
  
Petitioner,  
  
v.  
  
ERIC H. HOLDER, Jr., Attorney General,  
  
Respondent.

No. 09-70924

Agency No. A070-735-665

MEMORANDUM\*

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

Argued and Submitted February 13, 2012  
Pasadena, California

Before: PREGERSON, HAWKINS, and BEA, Circuit Judges.

Petitioner Carlos Marie Palafox-Reyes (“Palafox”), a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) decision affirming the Immigration Judge’s order of removal. We have

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

jurisdiction pursuant to 8 U.S.C. § 1252, and we deny Palafox’s petition for review. We address his arguments in turn.

1. The documents submitted by the Department of Homeland Security during Palafox’s removal proceedings established that: (1) Palafox was convicted of first-degree burglary, in violation of California Penal Code § 459, and (2) Palafox received a term of imprisonment of at least one year for his first-degree burglary conviction. Accordingly, the BIA did not err in finding that Palafox was removable as an alien convicted of an aggravated felony “crime of violence” under 8 U.S.C. § 1101(a)(43)(F). *See Kwong v. Holder*, No. 04-72167, --- F.3d ----, 2011 WL 6061513, at \*5 (9th Cir. Dec. 7, 2011); *Lopez-Cardona v. Holder*, 662 F.3d 1110, 1112 (9th Cir. 2011).<sup>1</sup>

2. Palafox argues that the term “alien” in the Immigration and Nationality Act does not apply to him because he considers himself to be a “national” of the United States. Palafox’s argument is foreclosed by our precedents. *See Theogene v. Gonzales*, 411 F.3d 1107, 1112 (9th Cir. 2005); *Reyes-Alcaraz v. Ashcroft*, 363 F.3d 937 (9th Cir. 2004).

**PETITION DENIED.**

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<sup>1</sup> Because Palafox is removable as an alien convicted of an aggravated felony “crime of violence” under 8 U.S.C. § 1101(a)(43)(F), we decline to address the alternative grounds for removal relied upon by the BIA.