

DEC 15 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OSCAR ROJAS-GALVEZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-73362

Agency No. A070-563-284

MEMORANDUM*

On Petition for Review of an Order of the
Department of Homeland Security

Submitted December 9, 2015**

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Oscar Rojas-Galvez, a native and citizen of Mexico, petitions for review of the Department of Homeland Security's ("DHS") final administrative removal order finding Rojas-Galvez removable as an alien convicted of an aggravated felony, after conducting an expedited removal proceeding pursuant to 8 U.S.C.

* 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).

§ 1228(b). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of due process violations. *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004). We deny the petition for review.

Rojas-Galvez does not challenge DHS's finding that he is removable for having been convicted of an aggravated felony under 8 U.S.C. § 1101(a)(43)(B).

Rojas-Galvez's due process claims fail, where the record indicates he was advised of his rights but refused to sign the Form I-851, Notice of Intent to Issue a Final Administrative Order, *see Kohli v. Gonzales*, 473 F.3d 1061, 1068 (9th Cir. 2007) (applying a presumption of regularity regarding the official acts of public officers), and where he is statutorily barred from adjustment of status, *see* 8 U.S.C. § 1228(b)(5) ("No alien described in this section [pertaining to the expedited removal of aliens convicted of aggravated felonies] shall be eligible for any relief from removal that the Attorney General may grant in the Attorney General's discretion."); 8 U.S.C. § 1255(a) (adjustment of status is discretionary); *see also Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on a due process claim).

PETITION FOR REVIEW DENIED.