

DEC 29 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ORLANDO NAVA PENA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75364

Agency No. A097-869-163

MEMORANDUM*

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

Submitted December 17, 2008**

Before: GOODWIN, RYMER, and TROTT, Circuit Judges.

Orlando Nava Pena, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal.

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

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings. *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

Nava Pena's contention that the agency violated his right to equal protection by not allowing him to apply for suspension of deportation is unavailing. Nava Pena was served with a Notice to Appear in 2004, when suspension relief was no longer available. *See Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107-08 (9th Cir. 2003) (initiation of removal proceedings rather than deportation proceedings does not violate due process); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) (rejecting equal protection claim and upholding congressional "line-drawing" decisions that are rationally related to a legitimate government purpose).

PETITION FOR REVIEW DENIED.