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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS BRAVO-BAUTISTA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-74821

Agency No. A092-870-383

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Carlos Bravo-Bautista, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order summarily affirming without opinion an immigration judge's decision denying his application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo

* 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).

questions of law, *Rosales-Rosales v. Ashcroft*, 347 F.3d 714, 717 (9th Cir. 2003), and we deny the petition for review.

Bravo-Bautista's contention that his offense did not constitute an aggravated felony because the execution of his sentence was suspended is unpersuasive. For immigration purposes, the "term of imprisonment" is deemed to include the period of incarceration or confinement ordered by the convicting court regardless of any suspension of the sentence's execution. 8 U.S.C. § 1101(a)(48)(B).

Bravo-Bautista's contention that his conviction was converted to a misdemeanor by operation of Cal. Penal Code § 17(b)(1) also fails. Bravo-Bautista's incarceration in the county jail was a condition of probation and did not constitute imposition of sentence to the county jail. *See United States v. Robinson*, 967 F.2d 287, 293 (9th Cir. 1992).

PETITION FOR REVIEW DENIED.