

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALBERTO AYALA-QUEZADA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-74295

Agency No. A079-380-436

MEMORANDUM\*

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

Submitted May 12, 2009\*\*

Before: PREGERSON, CANBY and BERZON, Circuit Judges.

Alberto Ayala-Quezada, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) summarily affirming an immigration judge’s (“IJ”) decision denying his application for cancellation of

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\* 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).

removal. Our jurisdiction is governed by 8 U.S.C. § 1252, and we dismiss the petition for review.

We lack jurisdiction to review the IJ's dispositive determination that Ayala-Quezada's 1994 and 1998 convictions for violating Cal. Penal Code § 273.5 render him ineligible for cancellation of removal under 8 U.S.C. § 1229b(b)(1)(C). Ayala-Quezada, who was represented by counsel, failed to exhaust this issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004).

**PETITION FOR REVIEW DISMISSED.**