

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 04 2009

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

ROBERTO ARROYO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-71958

Agency No. A075-531-155

MEMORANDUM*

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

Argued and Submitted May 4, 2009
Pasadena, California

Before: HALL, KLEINFELD and SILVERMAN, Circuit Judges.

To the extent that Arroyo's petition challenges the Immigration Judge's exercise of discretion, we dismiss it. 8 U.S.C. § 1252(a)(2)(B)(i); Ramirez-Perez v. Ashcroft, 336 F.3d 1001, 1005 (9th Cir. 2003). Insofar as Arroyo brings a due process claim based on alleged deficiencies in the Notice to Appear for removal proceedings, we deny his petition. His notice to appear said all it had to say under

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

8 U.S.C. § 1229(a)(1), that he was an alien not admitted or paroled, not a United States Citizen or national, so he was subject to removal. To the degree that Arroyo's other claims are exhausted, 8 U.S.C. § 1252(d)(1), and raised in his opening brief, see Eberle v. City of Anaheim, 901 F.2d 814, 817-18 (9th Cir. 1990), they lack merit.

DISMISSED IN PART; DENIED IN PART.