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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANILO BASMAYOR BARISO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-71807

Agency No. A041-166-580

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Danilo Basmayor Bariso, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying Bariso’s application for a waiver of

* 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).

inadmissibility under section 237(a)(1)(H) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(1)(H). We have jurisdiction under 8 U.S.C. § 1252 to review the statutory eligibility elements of a waiver of inadmissibility under section 237(a)(1)(H). *See San Pedro v. Ashcroft*, 395 F.3d 1156, 1157 (9th Cir. 2005). We review de novo questions of law, *Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1009 (9th Cir. 2005), and we deny the petition for review.

The IJ correctly concluded that Bariso was ineligible for a waiver of inadmissibility because he did not have a qualifying relative at the time of the IJ's decision. *See Kalezic v. INS*, 647 F.2d 920, 922 (9th Cir. 1981) (“[T]he critical date in applying [section 237(a)(1)(H)] is the date of the Immigration Judge's decision.”). Bariso's contention that his sisters should be considered qualifying relatives is not persuasive.

PETITION FOR REVIEW DENIED.