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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MIRZA JEMINA HERRERA TOBAR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-70609

Agency No. A091-679-171

MEMORANDUM*

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

Submitted July 29, 2009**

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

Mirza Jemina Herrera Tobar, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review de novo whether a particular conviction constitutes an aggravated felony, *Randhawa v. Ashcroft*, 298 F.3d 1148, 1151 (9th Cir. 2002), and we deny the petition for review.

The BIA properly determined that Herrera Tobar is removable as an aggravated felon under 8 U.S.C. § 1227(a)(2)(A)(iii) because her conviction under Cal. Health & Safety Code § 11351 was for “illicit trafficking in a controlled substance” as defined by 8 U.S.C. § 1101(a)(43)(B). *See Rendon v. Mukasey*, 520 F.3d 967, 976 (9th Cir. 2008) (“[P]ossession of a controlled substance with the intent to sell contains a trafficking element and is an aggravated felony.”). We reject Herrera Tobar’s contention that the record of conviction was insufficient to establish that her conviction related to a federally controlled substance. *See United States v. Snellenberger*, 548 F.3d 699, 702 (9th Cir. 2008) (en banc) (a clerk’s minute order may be considered in applying the modified categorical approach); *cf. Ruiz-Vidal v. Gonzalez*, 473 F.3d 1072, 1078 (9th Cir. 2007).

PETITION FOR REVIEW DENIED.