

OCT 05 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JESUS MANUEL DURAN-AVELAR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-71206

Agency No. A043-825-179

MEMORANDUM*

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

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Jesus Manuel Duran-Avelar, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying him a waiver of inadmissibility pursuant to 8

* 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).

U.S.C. § 1182(h). We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition for review.

Duran-Avelar contends that the Attorney General exceeded his statutory authority in promulgating 8 C.F.R. § 212.7(d), and that the agency's retroactive application of 8 C.F.R. § 212.7(d) was impermissible. Both of these contentions are foreclosed. *See Mejia v. Gonzales*, 499 F.3d 991, 995-98 (9th Cir. 2007) (expressly holding that promulgation of 8 C.F.R. § 212.7(d) was within the Attorney General's authority and that the regulation may be applied retroactively).

PETITION FOR REVIEW DENIED.