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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROGELIO ROCHA-GARCIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-70490

Agency No. A077-312-302

MEMORANDUM*

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

Submitted November 2, 2009**
Pasadena, California

Before: T.G. NELSON, BYBEE and M. SMITH, Circuit Judges.

Rogelio Rocha-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for cancellation of removal. We lack jurisdiction to review moral character determinations based on

* 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).

discretionary factors. 8 U.S.C. § 1252(a)(2)(B)(i); *Kalaw v. INS*, 133 F.3d 1147, 1151 (9th Cir. 1997). The IJ made an adverse moral character determination about Rocha-Garcia based on Rocha-Garcia's failure to submit electronic fingerprints, a discretionary factor. Because this determination is dispositive on the issue of cancellation of removal regardless of the other arguments raised by Rocha-Garcia, we lack jurisdiction to review this petition.

PETITION FOR REVIEW DISMISSED.