

DEC 08 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EDGAR DANIEL ROSALES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-71285

Agency No. A072-518-615

MEMORANDUM*

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

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Edgar Daniel Rosales, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s removal order. We have jurisdiction pursuant to

* 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).

8 U.S.C. § 1252. We review de novo, *Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1126-27 (9th Cir. 2007), and we deny the petition for review.

We agree with the BIA's conclusion that Rosales is removable under 8 U.S.C. § 1227(a)(2)(A)(iii) as an aggravated felon under because his conviction under California Penal Code § 245(a)(1) categorically constitutes a crime of violence and he was sentenced to a term of imprisonment of at least one year for his crime. *See United States v. Heron-Salinas*, 566 F.3d 898, 899 (9th Cir. 2009) (per curiam) (Cal. Penal Code § 245 contains the requisite mens rea to qualify as a crime of violence under 18 U.S.C. § 16).

Rosales' remaining contentions lack merit.

PETITION FOR REVIEW DENIED.