

JAN 19 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANTONIO ROQUE,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 07-72619

Agency No. A013-013-784

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Antonio Roque, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) decision finding him removable for alien smuggling. We have

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this is case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence the agency's findings of fact, *Urzua Covarrubias v. Gonzales*, 487 F.3d 742, 744 (9th Cir. 2007), and review de novo questions of law, *Altamirano v. Gonzales*, 427 F.3d 586, 591 (9th Cir. 2005). We deny the petition for review.

Substantial evidence supports the agency's determination that Roque was removable for alien smuggling where the record establishes that he provided a safe house and helped arranged transportation for undocumented aliens. *See Hernandez-Guadarrama v. Ashcroft*, 394 F.3d 674, 678 (9th Cir. 2005) (to establish that petitioner engaged in alien smuggling, government "need not prove direct participation in the physical border crossing").

We reject Roque's contention that the IJ improperly relied on hearsay evidence. *See Espinoza v. INS*, 45 F.3d 308, 309-10 (9th Cir. 1995) (the IJ may consider evidence if it "is probative and its admission is fundamentally fair").

Roque's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED.