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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HECTOR VELAZQUEZ GARCIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-70542

Agency No. A079-536-535

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Hector Velazquez Garcia, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) order denying his application for cancellation

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

of removal and denying his motion to remand. Our jurisdiction is governed by 8 U.S.C. § 1252 and we dismiss the petition for review.

We lack jurisdiction to review the IJ's dispositive determination that Velazquez Garcia is ineligible for cancellation of removal as an alien who is inadmissible as a violator of a protective order as described in 8 U.S.C. § 1227(a)(2)(E)(ii). Velazquez Garcia failed to exhaust this issue before the BIA, *see Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004), and waived review by failing to challenge the determination in his opening brief to this court, *see Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996).

We also lack jurisdiction to review the IJ's discretionary determination that Velazquez Garcia is ineligible for voluntary departure because he lacks the requisite good moral character. *See Moran v. Ashcroft*, 395 F.3d 1089, 1091 (9th Cir. 2005) (indicating that a good moral character determination is only reviewable where it is based on one of the statutory exclusions found in 8 U.S.C. § 1101(f)), *overruled on other grounds by Sanchez v. Holder*, 560 F.3d 1028 (9th Cir. 2009).

Velazquez Garcia's motion to remand is denied.

PETITION FOR REVIEW DISMISSED.