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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ENRIQUE TAPIA GARCIA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71972

Agency No. A074-813-646

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.

Enrique Tapia Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We review for substantial evidence. *Gui v. INS*, 280 F.3d 1217, 1225 (9th Cir. 2002) (adverse credibility determinations); *Cortez-Acosta v. INS*, 234 F.3d 476, 481 (9th Cir. 2000) (per curiam) (factual findings supporting removability). We deny the petition for review.

Substantial evidence supports the agency's finding that Tapia Garcia was removable for alien smuggling where the record contains the smuggled alien's sworn statement affirming that Tapia Garcia obtained a fraudulent entry visa for her, and that she was paying him to drive her across the border. *See Altamirano v. Gonzales*, 427 F.3d 586, 592 (9th Cir. 2005) (requiring "some form of affirmative assistance to the illegally entering alien"). Moreover, substantial evidence supports the agency's decision to credit the sworn statement and Officer Rodriguez's testimony over Tapia Garcia's inconsistent and implausible testimony concerning whether he confronted the smuggled alien while they were both detained at the border. *See Don v. Gonzales*, 476 F.3d 738, 743 (9th Cir. 2007).

Tapia Garcia's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED.