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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JESUS MARTIN RUIZ-OCHOA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-74787

Agency No. A096-107-794

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.

Jesus Martin Ruiz-Ochoa, 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”) order finding him removable. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review de novo whether a petitioner’s right to counsel was violated. *Mendoza-Mazariegos v. Mukasey*, 509 F.3d 1074, 1079 (9th Cir. 2007). We deny the petition for review.

Ruiz-Ochoa was not denied his right to counsel because he knowingly and voluntarily waived his right to counsel when he affirmatively asked the IJ to proceed with his bond determination without counsel after the IJ had offered to continue his hearing for a third time in order to secure counsel. *See Biwot v. Gonzales*, 403 F.3d 1094, 1100 (9th Cir. 2005) (“[A]n alien cannot appear pro se without a knowing a voluntary waiver of the right to counsel.”).

PETITION FOR REVIEW DENIED.