

APR 01 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCO ANTONIO VELASCO-  
ACEVES,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-75615

Agency No. A076-618-140

MEMORANDUM\*

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

Submitted March 16, 2010\*\*

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Marco Antonio Velasco-Aceves, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order affirming an immigration judge's decision denying his application for adjustment of status. 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 case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo questions of law, *Fernandez-Ruiz v. Gonzales*, 468 F.3d 1159, 1163 (9th Cir. 2006), and we deny the petition for review.

Contrary to Velasco-Aceves' contention, he does not qualify for relief under the Federal First Offender Act ("FFOA"), 18 U.S.C. § 3607, because he previously received the state-law equivalent of FFOA relief with respect to his 1984 charge. *See De Jesus Melendez v. Gonzales*, 503 F.3d 1019, 1026 (9th Cir. 2007) (alien may not avoid the immigration consequences of a drug conviction as a first offender when, as a result of a prior drug possession arrest, he was granted pretrial diversion under California law and was not required to plead guilty).

**PETITION FOR REVIEW DENIED.**