

JUN 09 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARTIN GARCIA-RODRIGUEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
---

No. 07-70004

Agency No. A055-270-699

MEMORANDUM\*

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

Submitted May 25, 2010\*\*

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Martin Garcia-Rodriguez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision finding him removable. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law and due

---

\* 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).

process claims, and for substantial evidence the agency's findings of fact.

*Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

Substantial evidence supports the agency's determination that the government established by clear, unequivocal, and convincing evidence that Garcia-Rodriguez knowingly participated in alien smuggling where Garcia-Rodriguez admitted that he provided false testimony during the hearing, and Garcia-Rodriguez testified inconsistently about the names of the smuggled alien and the smuggled alien's brother and about whether he examined the smuggled alien's passport. *See Urzua Covarrubias v. Gonzales*, 487 F.3d 742, 748-49 (9th Cir. 2007); *see also Gui v. INS*, 280 F.3d 1217, 1225 (9th Cir. 2002). Moreover, in light of Garcia-Rodriguez's inconsistent testimony, the admission of the smuggled alien's sworn statement for the limited purpose of establishing the smuggled alien's name was probative, fundamentally fair, and did not violate due process. *See Cunanan v. INS*, 856 F.2d 1373, 1374 (9th Cir. 1988).

In light of the forgoing, we need not reach Garcia-Rodriguez's contentions regarding the BIA's reliance on the Form I-213.

**PETITION FOR REVIEW DENIED.**