

JUL 01 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN SOLIS OLVERA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-72516

Agency No. A079-587-732

MEMORANDUM\*

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

Argued and Submitted June 17, 2010  
San Francisco, California

Before: SCHROEDER and BYBEE, Circuit Judges, and STOTLER\*\*, Senior  
District Judge.

Juan Solis Olvera, a native and citizen of Mexico, appeals the Board of  
Immigration Appeals's ("BIA") decision affirming an Immigration Judge's denial

---

\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The Honorable Alicemarie H. Stotler, Senior United States District  
Judge for the Central District of California, sitting by designation.

of his application for cancellation of removal under 8 U.S.C. § 1229b(b).

Petitioner contends the BIA erred in ruling that his conviction for willfully discharging a firearm in a grossly negligent manner rendered him statutorily ineligible for cancellation of removal.

The BIA did not err. Aliens who commit “[c]ertain firearm offenses” cannot obtain cancellation of removal. 8 U.S.C. §§ 1227(a)(2)(C), 1229b(b)(1)(C).

Petitioner’s conviction for willfully discharging a firearm in a grossly negligent manner in violation of California Penal Code § 246.3 is a firearms offense that renders him statutorily ineligible for cancellation of removal. *See Gonzalez-Gonzalez v. Ashcroft*, 390 F.3d 649, 652 (9th Cir. 2004); *Valerio-Ochoa v. INS*, 241 F.3d 1092, 1095 (9th Cir. 2001). We need not consider Petitioner’s argument that he is eligible for relief because he used a firearm for “cultural purposes.” This claim was never presented to the BIA and we lack jurisdiction to consider it. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

Petitioner also argues that this court should overrule *Gonzalez-Gonzalez*. A three-judge panel cannot, however, overrule a case unless there has been some intervening controlling authority. *See Miller v. Gammie*, 335 F.3d 889, 899-900 (9th Cir. 2003) (en banc). Petitioner has pointed to no intervening authority that undermines our decision in *Gonzalez-Gonzalez*.

The petition for review is **DENIED**.