

AUG 30 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARTURO CRUZ-SOLANO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 08-70786

Agency No. A090-851-513

MEMORANDUM*

On Petition for Review of an Order of the
former Legalization Appeals Unit

Submitted August 10, 2010**

Before: O’SANNLAIN, HAWKINS, and IKUTA, Circuit Judges.

Arturo Cruz-Solano, a native and citizen of Mexico, petitions for review of the former Legalization Appeals Unit’s (“LAU”) order dismissing his appeal from the denial of his Special Agricultural Worker (“SAW”) application. We have jurisdiction under 8 U.S.C. §§ 1160(e)(3) and 1252. We review for abuse of

* 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).

discretion the denial of a SAW application, *Perez-Martin v. Ashcroft*, 394 F.3d 752, 758 (9th Cir. 2005), and review de novo due process claims, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The LAU did not abuse its discretion in dismissing Cruz-Solano's SAW appeal where Cruz-Solano provided insufficient evidence to establish as a matter of just and reasonable inference that his work for Ukegawa Brothers, Inc. occurred during the statutory time period. *See Perez-Martin*, 394 F.3d at 759-60 (to overcome derogatory government evidence, an applicant must provide enough evidence to show qualifying employment "as a matter of just and reasonable inference") (quoting 8 U.S.C. § 1160(b)(3)(B)(iii)). It follows that the LAU did not violate due process. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

PETITION FOR REVIEW DENIED.