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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EVVERS RAFAEL GUEVARA-MORENO, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 08-72110 Agency No. A036-064-070 MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Evvers Rafael Guevara-Moreno, a native and citizen of Nicaragua, petitions for review of the Board of Immigration Appeals' ("BIA") decision vacating an immigration judge's ("IJ") decision granting cancellation of removal. Our

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* 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 is governed by 8 U.S.C. § 1252. We review de novo questions of law. *Brezilien v. Holder*, 569 F.3d 403, 411 (9th Cir. 2009). We deny in part and dismiss in part the petition for review.

The BIA denied cancellation of removal as a matter of discretion and this court lacks jurisdiction to review such discretionary decisions. *Romero-Torres v. Ashcroft*, 327 F.3d 887, 890 (9th Cir. 2003).

Guevara-Moreno's contention that the BIA exceeded its authority by engaging in fact-finding is not persuasive because the BIA reversed the IJ's decision as a matter of discretion, based on the facts found by the IJ, and did not find new facts. *See* 8 C.F.R. § 1003.1(d)(3)(ii) ("The Board may review questions of law, discretion, and judgment and all other issues in appeals from decisions of immigration judges de novo.").

PETITION FOR REVIEW DENIED in part; DISMISSED in part.