

SEP 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>THAN MIN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-70205

Agency No. A027-290-868

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.

Than Min, a native and citizen of Cambodia, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Cano-*

* 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).

Merida v. INS, 311 F.3d 960, 964 (9th Cir. 2002), and de novo questions of law, *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008). We deny the petition for review.

The agency properly denied Min's motion to reopen to apply for relief under former section 212(c), 8 U.S.C. § 1182(c) (repealed 1996), because he agreed to plead guilty pursuant to a plea agreement made after April 1, 1997, *see* 8 C.F.R. § 1003.44(b)(2), and because his crime of violence aggravated felony ground of removability lacks a statutory counterpart in a ground of inadmissibility, *see Aguilar-Ramos v. Holder*, 594 F.3d 701, 706 (9th Cir. 2010).

Min's due process retroactivity contentions are unavailing. *See Saravia-Paguada v. Gonzales*, 488 F.3d 1122, 1132-33 (9th Cir. 2007) (the past relevant conduct for the retroactivity analysis is the alien's decision whether to enter a guilty plea or proceed to trial, not the commission of the underlying crime).

PETITION FOR REVIEW DENIED.