

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NOT FOR PUBLICATION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>JAMAL M. EL-ABED,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-72821

Agency No. A092-774-881

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.

Jamal M. El-Abed, a native of Kuwait and citizen of Jordan, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s (“IJ”) removal order. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law. *Aguilar Gonzalez v.*

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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).

*Mukasey*, 534 F.d 1204, 1208 (9th Cir. 2008). We deny in part, and dismiss in part the petition for review.

Contrary to El-Abed's contention, the IJ did not rely on the conviction record of his vacated plea, but instead properly relied on the testimony of El-Abed and the government's witness in determining that El-Abed was inadmissible under 8 U.S.C. § 1182(a)(2)(C) for participating in drug trafficking. *See Lopez-Umanzor v. Gonzales*, 405 F.3d 1049, 1053-54 (9th Cir. 2005) (recognizing that witness testimony may support a finding of inadmissibility under 8 U.S.C. § 1182(a)(2)(C)).

We lack jurisdiction to review El-Abed's remaining contentions because he failed to exhaust them before the agency. *See Abebe v. Mukasey*, 554 F.3d 1203, 1208 (9th Cir. 2009) (en banc).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**