

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NOT FOR PUBLICATION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>RAFAEL BARAJAS-ARCEO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-74913

Agency No. A098-130-451

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.

Rafael Barajas-Arceo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s removal order. We have jurisdiction pursuant to 8 U.S.C.

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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).

§ 1252. We review de novo questions of law, *Mielewczyk v. Holder*, 575 F.3d 992, 994 (9th Cir. 2009), and deny the petition for review.

Barajas-Arceo contends that his conviction under Cal. Health & Safety Code § 11352(a) does not render him ineligible for cancellation of removal under 8 U.S.C. § 1229b(b)(1)(C) because the statute of conviction encompasses solicitation offenses and is therefore over-inclusive with respect to 8 U.S.C.

§§ 1182(a)(2)(A)(i)(II) and 1227(a)(2)(B)(i). This contention is foreclosed by *Mielewczyk*, 575 F.3d at 996-98.

**PETITION FOR REVIEW DENIED.**