

OCT 01 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROSELLE TAPERE VIRTUCIO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
---

No. 08-75206

Agency No. A096-158-598

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.

Roselle Tapere Virtucio, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals’ order dismissing her appeal from an immigration judge’s decision denying her application for adjustment of status. We have jurisdiction under 8 U.S.C. § 1252. Reviewing de novo questions of law,

---

\* 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).

*Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008), we deny the petition for review.

The agency properly denied Virtucio's application for adjustment of status because she failed to establish eligibility to adjust. *See* 8 U.S.C. § 1255(c)(7) (an applicant for adjustment of status based on employment must maintain lawful nonimmigrant status at the time she applies for adjustment).

Virtucio's remaining contentions are unavailing.

**PETITION FOR REVIEW DENIED.**