

OCT 25 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BARTOLO VALERIO-ESTRADA;  
TERESA DIAZ BENITEZ; GUILLERMO  
VALERIO DIAZ,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71043

Agency Nos. A095-190-481

A095-190-257

A078-112-579

MEMORANDUM\*

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

Submitted October 19, 2010\*\*

Before: O’SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Bartolo Valerio-Estrada, Teresa Diaz Benitez, and Guillermo Valerio Diaz,  
natives and citizens of Mexico, petition for review of the Board of Immigration  
Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s

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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).

decision denying their applications for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, including whether a state conviction is a removable offense. *Banuelos-Ayon v. Holder*, 611 F.3d 1080, 1082 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

The agency correctly determined that Valerio-Estrada's criminal conviction for corporal injury to his spouse renders him ineligible for cancellation of removal. *See* 8 U.S.C. §§ 1229b(b)(1)(C), 1227a(2)(E); *Banuelos-Ayon*, 611 F.3d at 1083 (a conviction under California Penal Code § 273.5(a) constitutes a categorical crime of violence under 18 U.S.C. § 16(a)).

The agency also correctly determined Diaz-Benitez is ineligible for cancellation of removal because she currently lacks any qualifying relatives. 8 U.S.C. § 1229b(b)(1)(D).

We lack jurisdiction to review the agency's determination that Teresa failed to show extreme hardship to a qualifying relative. *See Mendez-Castro v. Mukasey*, 552 F.3d 975, 978 (9th Cir. 2009). In addition, we lack jurisdiction over petitioners' contentions that the BIA failed to consider the evidence or the cumulative impact of their hardship evidence because they are not supported by the

record and do not amount to a colorable constitutional claims. *See Mendez-Castro*, 552 F.3d at 980 (9th Cir. 2009).

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