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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EDUARDO LEON-FLORES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-72848

Agency No. A017-921-465

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Eduardo Leon-Flores, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order sustaining the government’s appeal from the immigration judge’s (“IJ”) decision granting a waiver of inadmissibility under former section 212(c) of the Immigration and Nationality

* 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).

Act, 8 U.S.C. § 1182(c) (repealed 1996). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law and constitutional claims, *Figueroa v. Mukasey*, 543 F.3d 487, 491 (9th Cir. 2008), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA’s discretionary denial of Leon-Flores’ application for relief under section 212(c), *see* 8 U.S.C. § 1252(a)(2)(B)(ii) and *Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 923 (9th Cir. 2007) (“Discretionary decisions, including whether or not to grant § 212(c) relief, are not reviewable.”), and Leon-Flores has not raised a colorable due process challenge to the discretionary determination, *see Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). His contentions that the BIA applied an incorrect legal standard in adjudicating his application for section 212(c) relief are not persuasive.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.