

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HAIN DUBER NORIEGA-MILLAN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-74950

Agency No. A070-438-728

MEMORANDUM*

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

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Hain Duber Noriega-Millan, a native and citizen of Peru, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") deportation order. We have jurisdiction under 8 U.S.C.

* 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 for abuse of discretion the agency's discretionary denial of asylum, 8 U.S.C. § 1252(b)(4)(D), and we deny the petition for review.

The agency did not abuse its discretion in denying Noriega-Millan's asylum application in the exercise of discretion where it considered his family ties to the United States and concluded that they were not sufficient to outweigh his lengthy and serious criminal history. *See Kalubi v. Ashcroft*, 364 F.3d 1134, 1140 (9th Cir. 2004) (the agency must state its reasons and show proper consideration of all factors when weighing equities).

We need not reach Noriega-Millan's contention that the IJ erred in concluding that his convictions were aggravated felonies that rendered him ineligible for asylum because the agency's denial of his application in its discretion is dispositive.

PETITION FOR REVIEW DENIED.