

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MANUEL PENUELAS-HERMOSILLO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-71288

Agency No. A092-364-818

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.

Penuelas-Hermosillo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal of an immigration judge's removal order. Our jurisdiction is governed by 8 U.S.C. § 1252. We determine our jurisdiction de novo and review for substantial evidence the

* 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).

agency's factual findings. *Alarcon-Serrano v. INS*, 220 F.3d 1116, 1119 (9th Cir. 2000). We dismiss the petition for review.

Substantial evidence supports the agency's determination that Penuelas-Hermosillo is removable under 8 U.S.C. § 1182(a)(2)(C)(i) where the factual basis of his plea agreement evidences that he had knowledge of and affirmatively concealed the commission of felony possession of marijuana with intent to distribute. *See Lopez-Molina v. Ashcroft*, 368 F.3d 1206, 1211 (9th Cir. 2004). We therefore lack jurisdiction over this aspect of the petition for review. *See* 8 U.S.C. § 1252(a)(2)(C); *Lopez-Molina*, 368 F.3d at 1209.

We also lack jurisdiction to review the discretionary denial of Penuelas-Hermosillo's application for cancellation of removal for lawful permanent residents, 8 U.S.C. § 1252(a)(2)(B)(i), and he 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).

In light of our disposition, we need not reach Penuelas-Hermosillo's remaining contention.

PETITION FOR REVIEW DISMISSED.