

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NOT FOR PUBLICATION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>FRANCISCO ALONSO PORTILLO-CANO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-70207

Agency No. A075-459-571

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.

Francisco Alonso Portillo-Cano, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) removal order. We have jurisdiction under 8 U.S.C. § 1252. We review de novo claims of due process violations, including

* 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).

claims of ineffective assistance of counsel, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005), and we deny the petition for review.

The BIA did not err in concluding that Portillo-Cano had not shown he was prejudiced by his prior attorneys' failure to respond to the government's motion to pretermit where he failed to establish that a response may have affected the outcome of his removal proceeding. *See Iturribarria v. INS*, 321 F.3d 889, 899-900 (9th Cir. 2003).

Because Portillo-Cano failed to raise his contention that the IJ erred in issuing a summary decision on appeal to the BIA, we lack jurisdiction to review it. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

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

PETITION FOR REVIEW DENIED in part; DISMISSED in part.