

JAN 25 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE EMILIANO MORALES MEDINA,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 08-72468

Agency No. A093-122-635

MEMORANDUM*

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

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

Jose Emiliano Morales Medina, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals order dismissing his appeal from an immigration judge’s removal order. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo due process challenges. *Mohammed v. Gonzales*, 400

* 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).

F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The agency did not violate Morales Medina's due process rights by admitting the Form I-213 (Record of Deportable/Inadmissible Alien) because the form was probative, its admission was fundamentally fair, and Morales Medina did not allege coercion or error. *See Espinoza v. INS*, 45 F.3d 308, 310-11 (9th Cir. 1995); *see also Trias-Hernandez v. INS*, 528 F.2d 366, 369 (9th Cir. 1975) ("Hearsay is admissible in administrative proceedings, which need not strictly follow conventional evidence rules.") (citations omitted).

We lack jurisdiction to review Morales Medina's contention that the Form I-213 should not have been admitted for lack of proper authentication because he failed to raise that issue before the agency and thereby failed to exhaust his administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.