

MAR 10 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VIRGINIO DELABRA-REBOLLAR,
a.k.a. Flavio Delabra, a.k.a. Virginio
Delabra, Jr., a.k.a. Virginio Delabra, a.k.a.
Virgino Delabra, Jr., a.k.a. Virginio Sina
Delabra-Rebo, a.k.a. Flavio Rebollar-
Delabra,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71694

Agency No. A090-063-073

MEMORANDUM*

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

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

* 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).

Virginio Delabra-Rebollar, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's removal order. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Cazarez-Gutierrez v. Ashcroft*, 382 F.3d 905, 909 (9th Cir. 2004), and we deny the petition for review.

Delabra-Rebollar's conviction for violating California Health and Safety Code § 11378 is an aggravated felony under 8 U.S.C. § 1101(a)(43)(B). *See id.* at 919 (a state drug offense is an aggravated felony for immigration purposes if it contains a trafficking element). Contrary to Delabra-Rebollar's contention, the record of conviction establishes that he was convicted of selling methamphetamine. *See Shepard v. United States*, 544 U.S. 13, 16 (2005) (charging document and transcript of plea colloquy may be used for modified categorical analysis).

In his opening brief, Delabra-Rebollar did not challenge the agency's denial of his application for withholding of removal and, therefore, has waived this issue. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

In light of our disposition, we need not address Delabra-Rebollar's remaining contentions.

PETITION FOR REVIEW DENIED.