

MAR 10 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALFREDO RUELAS-RODRIGUEZ, a.k.a. Jose Rodriguez,</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>
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No. 08-73633

Agency No. A023-696-191

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.

Alfredo Ruelas-Rodriguez, 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 decision denying his application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for substantial

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\* 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).

evidence, *Ramos v. INS*, 246 F.3d 1264, 1266 (9th Cir. 2001), we grant the petition for review and remand for further proceedings.

Substantial evidence does not support the BIA's determination that Ruelas-Rodriguez is statutorily precluded from demonstrating good moral character under 8 U.S.C. § 1101(f)(6) where the agency did not find that Ruelas-Rodriguez made false statements with the subjective intent of obtaining immigration benefits. *See Kungys v. United States*, 485 U.S. 759, 780 (1988) ("Section 1101(f)(6) applies to only those misrepresentations made with the subjective intent of obtaining immigration benefits," and not to misrepresentations made for other reasons, such as fear, embarrassment, or a desire for privacy); *United States v. Hovsepian*, 422 F.3d 883, 887-88 (9th Cir. 2005) (en banc) (no subjective intent to deceive under 8 U.S.C. § 1101(f)(6) where inaccuracies resulted from poor memory, mistake, or vague questioning). We therefore grant the petition for review and remand for reconsideration of Ruelas-Rodriguez's eligibility for cancellation of removal or voluntary departure in the alternative.

In light of our disposition, we do not address Ruelas-Rodriguez's remaining contentions.

**PETITION FOR REVIEW GRANTED; REMANDED.**