

JUN 01 2011

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSE GONZALO ITUARTE-OLIVAS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73344

Agency No. A079-805-449

MEMORANDUM*

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

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Jose Gonzalo Ituarte-Olivas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for adjustment of status pursuant to the Child Status Protection Act ("CSPA"). We review de novo legal

* 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).

questions. *Padash v. INS*, 358 F.3d 1161, 1168 (9th Cir. 2004). We deny the petition for review.

The agency did not err in denying Ituarte-Olivas' application for adjustment of status because Ituarte-Olivas did not demonstrate that he was eligible to adjust status under the CSPA where he failed to apply for adjustment of status within one year of when his priority date became current. *See* 8 U.S.C. § 1153(h)(1)(A)-(B); *see also Padash*, 358 F.3d at 1167-68.

This decision is without prejudice to Ituarte-Olivas' ability to seek adjustment as an adult child of a lawful permanent resident.

PETITION FOR REVIEW DENIED.