

OCT 31 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RUBEN HERNANDEZ CORONA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-73927

Agency No. A095-760-798

MEMORANDUM*

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

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Ruben Hernandez Corona, 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. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We review de novo questions of law, *Nunez-Reyes v. Holder*, 646 F.3d 684, 688 (9th Cir. 2011) (en banc), and we deny the petition for review.

Hernandez Corona’s violation of the terms of his grant of deferred entry of judgment under Cal. Penal Code § 1000 et seq. would have rendered him ineligible for a disposition under the Federal First Offender Act had his crime been prosecuted in federal court. *See* 18 U.S.C. § 3607(a) (allowing for dismissal of proceedings, either during or at the end of a period of probation, “if the person has not violated a condition of his probation”). Accordingly, the subsequent expungement of Hernandez Corona’s conviction under Cal. Penal Code § 1203.4 does not eliminate its immigration consequences. *See Estrada v. Holder*, 560 F.3d 1039, 1042 (9th Cir. 2009); *see also Nunez-Reyes*, 646 F.3d at 713 (“[P]ersons who received the benefit of a state expungement law were not subject to deportation as long as they *could* have received the benefit of the FFOA if they had been prosecuted under federal law.”) (emphasis in original) (citation and quotations omitted).

PETITION FOR REVIEW DENIED.