

FILED

UNITED STATES COURT OF APPEALS

NOV 03 2011

FOR THE NINTH CIRCUIT

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

MANUEL JAIMES-MENDOZA,

No. 06-72479

Petitioner,

Agency No. A075-570-154

v.

ORDER

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Respondent's petition for panel rehearing is granted. The memorandum disposition filed on June 9, 2010, is withdrawn and a superseding memorandum disposition will be filed concurrently with this order.

NOT FOR PUBLICATION

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No. 06-72479

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MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Manuel Jaimes-Mendoza, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judges' order denying his application for adjustment of status. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law,

* 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).

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

The BIA correctly determined that Jaimes-Mendoza is inadmissible due to his conviction for being under the influence of cocaine pursuant to Cal. Health & Safety Code § 11550, despite his subsequent relief under Cal. Health & Safety Code § 1203.4. *See Nunez-Reyes*, 646 F.3d at 695 (Federal First Offender Act exception not available for “under the influence” convictions); *Ramirez-Castro v. INS*, 287 F.3d 1172, 1174 (9th Cir. 2002) (state expungement of a criminal conviction generally does not remove its immigration consequences).

PETITION FOR REVIEW DENIED.