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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS LARA CEPEDA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71306

Agency No. A092-997-972

MEMORANDUM*

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

Submitted November 8, 2011**

Before: O’SCANNLAIN, TASHIMA, and GRABER, Circuit Judges.

Carlos Lara Cepeda, 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 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, *Castillo-Cruz v. Holder*, 581 F.3d 1154, 1158-59 (9th Cir. 2009), and we deny the petition for review.

Cepeda is removable under 8 U.S.C. § 1227(a)(2)(A)(ii) because his 2007 and 2008 theft convictions are categorically crimes involving moral turpitude. *See id.* at 1159; *Flores Juarez v. Mukasey*, 530 F.3d 1020, 1022 (9th Cir. 2008); *Garcia-Lopez v. Ashcroft*, 334 F.3d 840, 843-44 (9th Cir. 2003).

Cepeda is not eligible for cancellation of removal under 8 U.S.C. § 1229b(a)(3) because his 2008 theft conviction is an aggravated felony under 8 U.S.C. § 1101(a)(43)(G). The docket sheet and complaint establish that he committed theft of personal property under the modified categorical approach and that he was sentenced to a term of imprisonment of more than one year. *See United States v. Rivera*, ___ F.3d ___, No. 10-50313, 2011 WL 4430843 at *2 (9th Cir. Sept. 23, 2011) (recidivist sentencing enhancement may be considered in calculating the term of imprisonment under 8 U.S.C. § 1101(a)(43)(G)); *United States v. Strickland*, 601 F.3d 963, 968-69 (9th Cir. 2010) (en banc) (docket sheet may be considered in applying modified categorical approach).

PETITION FOR REVIEW DENIED.