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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SERGIO PONCE-GUTIERREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-74778

Agency No. A092-130-002

MEMORANDUM\*

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

Submitted December 19, 2011\*\*

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Sergio Ponce-Gutierrez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order denying his motion to reopen. We review de novo questions of law, *Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 921 (9th Cir. 2007), and we dismiss the petition for review.

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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).

Ponce-Gutierrez's contention that he is not deportable because his convictions have been expunged is unavailing, regardless of the date the expungement took effect. *See Ramirez-Castro v. INS*, 287 F.3d 1172, 1175 (9th Cir. 2002) (holding that a conviction expunged in 1993 under California law retained its adverse immigration consequences). We therefore lack jurisdiction to review the order of deportation against Ponce-Gutierrez because he is deportable under 8 U.S.C. § 1227(a)(2)(A)(ii) on the basis of two convictions under California Penal Code § 273.5(a), for which a sentence of at least one year may be imposed. *See* 8 U.S.C. § 1252(a)(2)(C); *Ghahremani v. Gonzales*, 498 F.3d 993, 998 n.5 (9th Cir. 2007) (8 U.S.C. § 1252(a)(2)(C) applies to the court's review of the denial of a motion to reopen).

**PETITION FOR REVIEW DISMISSED.**