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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE ALBERTO GUTIERREZ-CERVERA,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 10-73838

Agency No. A091-943-917

MEMORANDUM*

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

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Jose Alberto Gutierrez-Cervera, 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. Our jurisdiction is governed by 8 U.S.C.

* 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).

§ 1252. We review de novo questions of law. *Szalai v. Holder*, 572 F.3d 975, 978-79 (9th Cir. 2009). We deny in part and dismiss in part the petition for review.

The agency properly concluded that Gutierrez-Cervera is removable under 8 U.S.C. § 1227(a)(2)(E)(ii) where he was convicted twice under Cal. Penal Code § 273.6(a) for knowingly and intentionally violating a protection order. *See Alanis-Alvarado v. Holder*, 558 F.3d 833, 839-40 (9th Cir. 2009) (state court need not find that alien actually had engaged in violent, threatening, or harassing behavior, but that alien violated “the portion of a protection order that involves protection against” violence, threats, or harassment).

We lack jurisdiction to review the agency’s denial of cancellation of removal as a matter of discretion. *See* 8 U.S.C. § 1252(a)(2)(B)(i).

Respondent’s motion to strike Exhibit A from Gutierrez-Cervera’s opening brief is granted. *See* 8 U.S.C. § 1252(b)(4).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.