

APR 23 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAMON CERVANTES-GARIVAY,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
---

No. 10-72692

Agency No. A092-375-713

MEMORANDUM\*

On Petition for Review of an Order  
of the Department of Homeland Security

Submitted April 17, 2012\*\*

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Ramon Cervantes-Garivay, a native and citizen of Mexico, petitions for review of the Department of Homeland Security’s order reinstating his 1999 removal order under 8 U.S.C. § 1231(a)(5). We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law, *Garcia de Rincon v. Dep’t of*

---

\* 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).

*Homeland Sec.*, 539 F.3d 1133, 1136 (9th Cir. 2008), and we deny the petition for review.

Because Cervantes-Garivay has failed to demonstrate a gross miscarriage of justice in his prior removal proceedings, he may not collaterally attack his 1999 removal order in this petition for review. *See id.* at 1137-38 (a petitioner may not obtain collateral review of an underlying removal order unless he demonstrates “a gross miscarriage of justice” in the underlying proceedings).

**PETITION FOR REVIEW DENIED.**