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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALBERTO ANTONIO REYES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-72327

Agency No. A092-293-926

MEMORANDUM*

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

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Alberto Antonio Reyes, a native and citizen of Panama, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) removal order. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law. *Ramirez-Villalpando v.*

* 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).

Holder, 645 F.3d 1035, 1038 (9th Cir. 2011). We deny in part and dismiss in part the petition for review.

The BIA correctly determined that Reyes' conviction under California Health and Safety Code § 11378 constituted an aggravated felony which rendered him statutorily ineligible for cancellation of removal. *See* 8 U.S.C.

§§ 1101(a)(43)(B); 1229b(a)(3); *United States v. Strickland*, 601 F.3d 963, 968-69 (9th Cir. 2010) (en banc).

Reyes' contention that the IJ abused her discretion in denying a continuance is moot because his motion to vacate his criminal conviction was denied. *See Pedroza-Padilla v. Gonzales*, 486 F.3d 1362, 1364 n.2 (9th Cir. 2007).

We lack jurisdiction to review the agency's denial of voluntary departure. 8 U.S.C. § 1252(a)(2)(B)(i).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.