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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FERMIN PEREZ-SANCHEZ,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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Nos. 09-72128
10-70767

Agency No. A092-856-801

MEMORANDUM*

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

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

In these consolidated petitions for review, Fermin Perez-Sanchez, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) orders dismissing his appeal from an immigration judge’s removal order and denying his motion to reopen. Our jurisdiction is governed by

* 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).

8 U.S.C. § 1252. We review de novo questions of law, for substantial evidence the agency's factual findings, and for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA correctly determined that Perez-Sanchez's conviction under California Penal Code § 273.5(a) constituted an aggravated felony crime of violence under 8 U.S.C. § 1101(a)(43)(F) that rendered him removable. *See* 8 U.S.C. § 1227(a)(2)(A)(iii); *Banuelos-Ayon v. Holder*, 611 F.3d 1080, 1083 (9th Cir. 2010). Perez-Sanchez is ineligible for asylum and cancellation of removal due to the aggravated felony conviction. *See* 8 U.S.C. §§ 1158(b)(2)(A)(ii), B(i), 1229b(a)(3).

The agency applied the proper legal standard as set forth in *Matter of Frentescu*, 18 I. & N. Dec. 244, 247 (BIA 1982), in determining Perez-Sanchez was convicted of a particularly serious crime rendering him ineligible for withholding of removal under 8 U.S.C. § 1231(b)(3)(B)(ii). *See Anaya-Ortiz v. Holder*, 594 F.3d 673, 679-80 (9th Cir. 2010); *see also Pechenkov v. Holder*, 705 F.3d 444, 448 (9th Cir. 2012) (our jurisdiction is limited to colorable constitutional claims and legal questions).

Substantial evidence supports the agency's determination that Perez-Sanchez failed to establish that it is more likely than not that he would be tortured if he were returned to El Salvador. *See Wakkary v. Holder*, 558 F.3d 1049, 1067-68 (9th Cir. 2009).

PETITIONS FOR REVIEW DENIED.