

DEC 18 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JULIO CESAR LUNA-GUTIERREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 12-71102

Agency No. A088-169-852

MEMORANDUM*

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

Submitted December 17, 2013**

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

Julio Cesar Luna-Gutierrez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) order of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo due process claims. *Pagayon v. Holder*, 675

* 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).

F.3d 1182, 1191 (9th Cir. 2011) (per curiam). We deny the petition for review.

Luna-Gutierrez contends that the BIA violated due process by accepting the IJ's certification of his case after remand. Luna-Gutierrez's due process claim fails because he has not indicated what additional evidence he would have submitted on remand if his case had not been certified back to the BIA. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (petitioner must show error and prejudice to establish a due process violation).

PETITION FOR REVIEW DENIED.