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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALBERTO VILLAREAL-VALDEZ,

Petitioner,

v.

ERIC H. HOLDER JR., Attorney General,

Respondent.

No. 10-71059

Agency No. A079-380-221

MEMORANDUM*

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

Submitted January 17, 2014**
San Francisco, California

Before: O'SCANNLAIN, GRABER, and NGUYEN, Circuit Judges.

Petitioner Alberto Villareal-Valdez petitions for review of the Board of Immigration Appeals' ("BIA") dismissal of his appeal from an immigration judge's ("IJ") entry of a final order of removal. We deny the petition.

* 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. Fed. R. App. P. 34(a)(2).

1. Substantial evidence supports the BIA's and IJ's finding that there is "reason to believe" that Petitioner "is or has been an illicit trafficker" in a controlled substance. 8 U.S.C. § 1182(a)(2)(C)(i); see Lopez-Molina v. Ashcroft, 368 F.3d 1206, 1211 (9th Cir. 2004) (holding that we review for substantial evidence). Petitioner admits that he gave an undercover officer a bag of marijuana and received \$20 from the officer. The BIA and IJ were not required to believe that his possession and transfer were innocent. "While a generous fact-finder might have believed [Petitioner's] version of the facts, both the BIA and IJ were clearly within reason on these facts and circumstances to conclude otherwise." Alarcon-Serrano v. INS, 220 F.3d 1116, 1120 (9th Cir. 2000).

2. Petitioner's due process argument fails because he cannot show prejudice. See Lata v. INS, 204 F.3d 1241, 1246 (9th Cir. 2000) ("To prevail on a due process challenge to deportation proceedings, Lata must show error and substantial prejudice.").

Petition DENIED.