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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>ALBERTO AGUIRRE-DIAZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 12-72529

Agency No. A087-451-062

MEMORANDUM\*

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

Submitted January 21, 2014\*\*

Before: CANBY, SILVERMAN, and PAEZ, Circuit Judges.

Alberto Aguirre-Diaz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s removal order. We have jurisdiction under 8 U.S.C.

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\* 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).

§ 1252. We review de novo legal determinations regarding eligibility for cancellation of removal. *Sinotes-Cruz v. Gonzales*, 468 F.3d 1190, 1194 (9th Cir. 2006). We deny the petition for review.

Aguirre-Diaz conceded that he was confined to more than 180 days of pre-trial detention credited against his six-month sentence, and that he is unable to establish good moral character under *Arreguin-Moreno v. Mukasey*, 511 F.3d 1229 (9th Cir. 2008). Thus the agency correctly determined that Aguirre-Diaz failed to establish the requisite good moral character to qualify for cancellation of removal. *See* 8 U.S.C. § 1101(f)(7) (a petitioner cannot meet the good moral character requirement if confined 180 days or more in a penal institution); *Arreguin-Moreno*, 511 F.3d at 1233 (holding “that when pre-trial detention is credited against the sentence imposed upon conviction, the period of pre-trial detention must be considered as confinement as a result of a conviction within the meaning of § 1101(f)(7)”).

Aguirre-Diaz’s attempts to distinguish his case from *Arreguin-Moreno* are unavailing because he was sentenced to more than 180 days following his conviction, regardless of whether he should have been given bail before his conviction. *See* 8 U.S.C. § 1101(f)(7).

**PETITION FOR REVIEW DENIED.**