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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEJANDRO SANTIAGO	)	No. 15-73936
HILARIO, AKA Alejandro Elario	)	
Santiago,	)	Agency No. A205-711-087
	)	
Petitioner,	)	MEMORANDUM*
	)	
v.	)	
	)	
WILLIAM P. BARR, Attorney	)	
General,	)	
	)	
Respondent.	)	
_____	)	

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

Submitted March 4, 2019**
Pasadena, California

Before: FERNANDEZ and OWENS, Circuit Judges, and DONATO,*** District
Judge.

*This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

**The panel unanimously finds this case suitable for decision without oral
argument. Fed. R. App. P. 34(a)(2).

***The Honorable James Donato, United States District Judge for the
Northern District of California, sitting by designation.

Alejandro Santiago Hilario petitions for review of the Board of Immigration Appeals' (BIA) denial of his applications for cancellation of removal¹ and voluntary departure.² We deny the petition.

(1) In order to be eligible for cancellation of removal, Santiago had to show, among other things, that he had “been a person of good moral character”³ “for a continuous period of not less than 10 years immediately preceding the date of [his] application.”⁴ However, he could not establish good moral character if during that period he had “been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more.” § 1101(f)(7); *see also Romero-Ochoa v. Holder*, 712 F.3d 1328, 1330–31 (9th Cir. 2013); *Arreguin-Moreno v. Mukasey*, 511 F.3d 1229, 1232–33 (9th Cir. 2008). The BIA determined that Santiago did not meet those requirements, and he did not present argument on that issue in his opening brief before us. Therefore, he has

¹*See* 8 U.S.C. § 1229b(b)(1) (hereafter all references to sections are to sections in Title 8 of the United States Code).

²*See* § 1229c(b)(1).

³§ 1229b(b)(1)(B).

⁴*Id.* at (b)(1)(A).

waived the issue.⁵ *See Castro-Perez v. Gonzales*, 409 F.3d 1069, 1070, 1072 (9th Cir. 2005); *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999); *see also Diego v. Sessions*, 857 F.3d 1005, 1015 n.4 (9th Cir. 2017). That is fatal to his cancellation of removal claim.

(2) In order to be eligible for voluntary departure, Santiago had to show, among other things, that he had been “a person of good moral character for at least 5 years immediately preceding [his] application for voluntary departure.”

§ 1229c(b)(1)(B); *see also* § 1101(f)(7). Here, too, the BIA determined that he did not meet those requirements, and he did not present argument on that issue in his opening brief before us. Thus, for the same reasons as those set forth in (1), above, he has waived the issue. That is fatal to his voluntary departure claim.

Thus, we deny his petition.⁶

Petition DENIED.

⁵We note that Santiago did not raise the issue before the BIA either.

⁶We need not and do not consider whether Santiago had committed a crime of moral turpitude or an aggravated felony. Whether he did or did not, his petition fails because of the good moral character requirements.