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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JACQUELINE ESTRADA,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 07-74662

Agency No. A74-306-234

MEMORANDUM \*

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

Submitted April 15, 2008 \*\*

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

Jacqueline Estrada petitions for review of the Board of Immigration Appeals' ("BIA") decision denying her application for cancellation of removal and finding her ineligible for a waiver to the charge of inadmissibility for alien smuggling in violation of 8 U.S.C. § 1182(a)(6)(E)(i).

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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 finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

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The BIA properly found petitioner ineligible for cancellation of removal because she admittedly was not “an alien lawfully admitted for permanent residence for not less than 5 years” at the time she was served with a notice to appear. 8 U.S.C. § 1229b(a)(1).

We also agree with the BIA’s conclusion that petitioner is not eligible for a waiver under 8 U.S.C. § 1182(d)(11) because one of the two individuals involved in the smuggling attempt, petitioner’s brother-in-law, is not a recognized family member under the waiver. *See Moran v. Ashcroft*, 395 F.3d 1089, 1094 (9th Cir. 2005) (holding that the waiver under 8 U.S.C. § 1182(d)(11) applies to an alien who “has encouraged induced, assisted, abetted, or aided only an individual who at the time of such action was the alien’s spouse, parent, son or daughter (and no other individual) to enter the United States in violation of law.”).

Because petitioner has failed to raise a challenge to the BIA’s decision, respondent’s unopposed motion for summary disposition is granted. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**