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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GABRIEL CRUZ-GARCIA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-74109

Agency No. A34-632-697

MEMORANDUM*

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

Submitted July 1, 2008**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Gabriel Cruz-Garcia, 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 pursuant to 8 U.S.C.

* 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).

§ 1252. We review de novo questions of law, *Fernandez-Ruiz v. Gonzales*, 468 F.3d 1159, 1163 (9th Cir. 2006), and we deny the petition for review.

Cruz-Garcia’s contention that he is eligible for relief under former § 212(c) is foreclosed by *Armendariz-Montoya v. Sonchik*, 291 F.3d 1116, 1121-22 (9th Cir. 2002) (aliens who “pleaded not guilty and elected a jury trial . . . [are] barred from seeking § 212(c) relief”). *See also Saravia-Paguada v. Gonzales*, 488 F.3d 1122, 1131-34 (9th Cir. 2007). Under *Armendariz-Montoya*’s reasoning, Cruz-Garcia is not similarly situated, for purposes of § 212(c) relief, to those aliens who pled guilty. He has therefore not established an equal protection violation. *See Dillingham v. INS*, 267 F.3d 996, 1007 (9th Cir. 2001) (“In order to succeed on his [equal protection] challenge, the petitioner must establish that his treatment differed from that of similarly situated persons.”).

PETITION FOR REVIEW DENIED.