

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 12 2008

MOLLY DWYER, ACTING CLERK  
U.S. COURT OF APPEALS

ARMANDO SAMANO-ONTIVEROS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-75244

Agency No. A92-451-647

MEMORANDUM\*

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

Submitted February 26, 2008\*\*

Before: BEEZER, FERNANDEZ and McKEOWN, Circuit Judges.

Armando Samano-Ontiveros, a native of Mexico and lawful permanent resident of the United States, petitions for review of the Board of Immigration Appeals' order affirming without opinion an immigration judge's decision

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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).

denying his application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252, *Fernandez-Ruiz v. Gonzales*, 468 F.3d 1159, 1163 (9th Cir. 2006) and we deny the petition for review.

Samano-Ontiveros contends that his conviction under California Health & Safety Code § 11351 was obtained in violation of his constitutional rights and therefore does not render him removable. We reject this contention, as we cannot collaterally revisit the circumstances of a conviction. *See Ortega de Robles v. INS*, 58 F.3d 1355, 1358 (9th Cir. 1995) (“Criminal convictions cannot be collaterally attacked in deportation proceedings.”).

Samano-Ontiveros’ due process contention is unpersuasive. *See* 8 U.S.C. § 1240.10(e) (“At any time during the proceeding, additional or substituted charges...may be lodged by the Service in writing.”).

**PETITION FOR REVIEW DENIED.**