

MAR 14 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARGARITO QUINONEZ-OROZCO,

Petitioner,

v.

MICHAEL B. MUKASEY, * Attorney
General,

Respondent.

No. 04-76363

Agency No. A91-599-685

MEMORANDUM **

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

Submitted March 10, 2008 ***
Phoenix, Arizona

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

Petitioner seeks review of the denial of his application for cancellation of removal, arguing that the Immigration Judge and Board of Immigration Appeals

* Michael B. Mukasey is substituted as the current Attorney General of the United States pursuant to Fed. R. App. P. 43(c)(2).

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

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

incorrectly determined his conviction for dealing in counterfeit obligations or securities in violation of 18 U.S.C. § 473¹ to be an “offense relating to . . . counterfeiting” and therefore an aggravated felony under 8 U.S.C. § 1101(a)(43)(R).

This case is similar to Albillo-Figueroa v. INS, 221 F.3d 1070 (9th Cir. 2000), which held that a conviction for possession of counterfeit obligations in violation of 18 U.S.C. § 472² is an “offense relating to counterfeiting” and therefore an aggravated felony under 8 U.S.C. § 1101(a)(43)(R). Both 18 U.S.C. § 472 and its sister provision, 18 U.S.C. § 473, require an intent to defraud³ and are indisputably crimes “relating to” counterfeiting. As Albillo-Figueroa reasoned, to hold otherwise would

¹Section 473 provides: “Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be fined under this title or imprisoned not more than 20 years, or both.”

²Section 472 provides: “Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined under this title or imprisoned not more than 20 years, or both.”

³ Dealing in counterfeit securities necessarily entails an intent to defraud. Winestock v. INS, 576 F.2d 234, 235 (9th Cir. 1978) (intent inherent in offense because petitioner “admitted intending to pass off something valueless as being something of value”).

“read the term ‘relating to’ out of section 1101(a)(43)(R).” Albillo-Figueroa, 221 F.3d at 1073.

PETITION DENIED.