

**SEP 27 2007**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARCO VITELIO GARCIA,

Petitioner,

v.

PETER D. KEISLER,\*\* Acting Attorney  
General,

Respondent.

No. 05-75838

Agency No. A72-509-617

MEMORANDUM\*

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

Submitted September 24, 2007\*\*\*

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Marco Vitelio Garcia, a native and citizen of Guatemala, petitions for

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

\*\* Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

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

review of an order of the Board of Immigration Appeals (“BIA”) affirming an immigration judge’s (“IJ”) decision denying his application for relief under the Nicaraguan Adjustment and Central American Relief Act of 1997 (“NACARA”). To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review claims of constitutional violations de novo, *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the IJ’s determination that Garcia did not establish eligibility for NACARA relief. *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, § 309(c)(5)(C)(ii), Pub. L. No. 104-208 (“A determination by the Attorney General as to whether an alien satisfies the requirements of clause (i) is final and shall not be subject to review by any court”), *as amended by* NACARA, Pub. L. No.105-100 (1997) (found at 8 U.S.C. 1101 note).

Garcia’s contention that the IJ violated due process by preventing him from applying for cancellation of removal is not supported by the record.

We are not persuaded by Garcia’s contentions regarding the adequacy of the BIA’s order adopting and affirming the IJ’s decision and adding its own reasoning. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 850 (9th Cir. 2003).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**