

SEP 28 2007

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESUS ALBERTO DELGADO,

Petitioner,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 05-76815

Agency No. A70-738-649

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.

* 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).

Jesus Alberto Delgado, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order affirming without opinion an immigration judge's ("IJ") decision finding Delgado inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered without inspection and ordering him removed. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

We review factual findings for substantial evidence. *See Aruta v. INS*, 80 F.3d 1389, 1393 (9th Cir. 1996). The IJ properly sustained the charge against Delgado by relying on the record of deportable/inadmissible alien ("I-213"). *See Espinoza v. INS*, 45 F.3d 308, 310 (9th Cir. 1995) (holding the government met its burden of proving removability where it submitted an authenticated, reliable I-213, in which the individual conceded alienage). Delgado failed to present evidence that the I-213 is unreliable, or independently establish his entry was by means of lawful admission. *See id.*; *see also* 8 U.S.C. § 1361 (an individual in removal proceedings has the burden to show "the time, place, and manner of his entry into the United States").

We lack jurisdiction to review Delgado's remaining contentions because he failed to raise them before the BIA and thereby did not exhaust his administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (explaining

that this court lacks jurisdiction to review contentions not raised before the agency).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.