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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CHRISTIAN ALEXANDER SANCHEZ-HERRERA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-71900

Agency No. A098-253-331

MEMORANDUM*

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

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Christian Alexander Sanchez-Herrera, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's ("IJ") decision denying his

* 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).

application for adjustment of status and ordering him removed to Guatemala. We have jurisdiction under 8 U.S.C. § 1252(a)(2)(D). We deny the petition for review.

The conviction was final and could therefore be considered by the IJ in finding Sanchez-Herrera inadmissible and subject to removal. *See* 8 U.S.C. § 1182(a)(2)(A)(i)(II); *Grageda v. INS*, 12 F.3d 919, 921 (9th Cir. 1993). The IJ's refusal to continue immigration proceedings to allow Sanchez-Herrera to collaterally attack the conviction was not an abuse of discretion. *See Grageda*, 12 F.3d at 921. Further, because the denial of the continuance was not error, the denial did not violate Sanchez-Herrera's due process rights. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) ("To prevail on a due process challenge to deportation proceedings, [a petitioner] must show error and substantial prejudice.").

Respondent Holder's motion to expedite decision is denied as moot.

PETITION FOR REVIEW DENIED.