

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

November 17, 2009

Charles R. Fulbruge III
Clerk

No. 08-60261
Summary Calendar

VICTOR LEONARDO RUIZ

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A43 906 393

Before JONES, Chief Judge, and GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:*

Victor Leonardo Ruiz petitions this court to review the decision of the Board of Immigration Appeals (BIA) dismissing his appeal and affirming the immigration judge's (IJ) order that Ruiz was ineligible for cancellation of removal pursuant to 8 U.S.C. § 1229b(a)(3) because he had committed an aggravated felony. Ruiz, who has been convicted in state court of possession of controlled substances on more than one occasion since his admission to the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

United States, argues that his treatment as an aggravated felon under federal law based on his state drug possession convictions violates his due process rights given that he has never been convicted under a state recidivist statute. He asserts that none of his drug possession convictions, standing alone, constitutes an aggravated felony.

The BIA correctly determined that Ruiz had committed an aggravated felony for immigration law purposes. *See Carachuri-Rosendo v. Holder*, 570 F.3d 263, 266-68 (5th Cir. 2009), *petition for cert. filed* (July 15, 2009) (No. 09-60). Accordingly, Ruiz's petition for review is DENIED.