

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

United States Court of Appeals
Fifth Circuit

FILED

October 29, 2009

Charles R. Fulbruge III
Clerk

No. 08-60636

Summary Calendar

GEORGE BOUTROS ATA,

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. A36 029 397

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

George Boutros Ata petitions this court for review of the decision of the Board of Immigration Appeals (BIA) dismissing his appeal and affirming the immigration judge's order that Ata is removable pursuant to 8 U.S.C. § 1227(a)(2)(A)(iii) and ineligible for cancellation of removal pursuant to 8 U.S.C. § 1229b(a)(3) because he committed an aggravated felony.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Ata specifically contends that the BIA improperly characterized his 2007 Texas conviction for marijuana possession as an aggravated felony punishable under the Controlled Substances Act, particularly 21 U.S.C. § 844(a), because he was neither prosecuted nor convicted under a relevant federal or state recidivist offender statute; that the BIA should not have followed the hypothetical approach used by this court in *United States v. Sanchez-Villalobos*, 412 F.3d 572 (5th Cir. 2005) because *Sanchez-Villalobos* contravenes prior precedent in the immigration context; and that the rule of lenity should be applied to resolve any lingering ambiguities in the statutory language. Ata's arguments are foreclosed by our decision in *Carachuri-Rosendo v. Holder*, 570 F.3d 263 (5th Cir. 2009), *petition for cert. filed* 78 U.S.L.W. 3058 (2009) (No. 09-60).

Ata does not challenge the BIA's determinations regarding his applications for asylum, withholding of removal, and protection under the Convention Against Torture. Any such challenges are abandoned. *See Soadjede v. Ashcroft*, 324 F.3d 830, 833 (5th Cir. 2003).

Accordingly, Ata's petition for review is DENIED.