

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 23 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

VICTOR MANUEL HERNANDEZ
SARMIENTO,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-71305

Agency No. A074-434-722

MEMORANDUM*

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

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Victor Manuel Hernandez Sarmiento, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's 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 cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003), and we deny in part and dismiss in part the petition for review.

The agency properly denied Hernandez Sarmiento's application for relief because he failed to depart within the voluntary departure period. *See* 8 U.S.C. § 1229c(d)(1)(B) (the failure to depart voluntarily within the time period results in a ten-year bar to certain forms of relief, including cancellation of removal); *de Martinez v. Ashcroft*, 374 F.3d 759, 763-64 (9th Cir. 2004).

We lack jurisdiction to consider Hernandez Sarmiento's estoppel claim because he failed to raise it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Hernandez Sarmiento's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.