

AUG 17 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

OSCAR ARCOS-SANTIAGO,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-73791

Agency No. A077-336-296

MEMORANDUM\*

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

Submitted August 11, 2009\*\*

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Oscar Arcos-Santiago, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for cancellation of removal.

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\* 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).

Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we review for abuse of discretion the denial of a motion to remand, *Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency's discretionary determination that Arcos-Santiago failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

Arcos-Santiago's contention that the agency failed to cumulatively weigh all the hardship evidence is not supported by the record and does not amount to a colorable constitutional claim. *See id.* ("traditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction").

The BIA did not abuse its discretion in denying the motion to remand. *See Malhi*, 336 F.3d at 994. Here, Arcos-Santiago did not demonstrate prima facie eligibility for adjustment of status.

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**