FILED

JUN 03 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERNANDO TECONTERO HERNANDEZ, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 07-71569 Agency No. A077-288-959 MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Fernando Tecontero Hernandez, 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 removal order. We have jurisdiction under 8 U.S.C.

---

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1252. We review de novo questions of law. *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1145 (9th Cir. 2002). We deny the petition for review.

The BIA correctly determined that Tecontero Hernandez was statutorily ineligible for adjustment of status because there was no immigrant visa immediately available to him. *See* 8 U.S.C. § 1255(i)(2).

In his opening brief, Tecontero Hernandez fails to address, and therefore has waived any challenge to, the BIA's determination that he is ineligible for cancellation of removal. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

Tecontero Hernandez's remaining contentions are not persuasive.

PETITION FOR REVIEW DENIED.