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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SILVERIO MEJIA SALGUERO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-74243

Agency No. A070-187-256

MEMORANDUM*

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

Submitted May 25, 2010**
San Francisco, California

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

Silverio Mejia Salguero, a native and citizen of Guatemala, petitions for review from the Board of Immigration Appeals' summary affirmance of an immigration judge's denial of his applications for suspension of deportation.

* 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).

We lack jurisdiction to review the IJ's discretionary determination that petitioner failed to demonstrate the requisite hardship. *See Kalaw v. INS*, 133 F.3d 1147, 1151-52 (9th Cir. 1997). To the extent Salguero raises a due process challenge to the hardship determination, we lack jurisdiction because the claim is not colorable. *See Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001) (indicating that an applicant may not create the jurisdiction Congress chose to remove simply by cloaking an abuse of discretion argument in constitutional garb).

We also lack jurisdiction to review the BIA's decision to summarily affirm the immigration judge's decision. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 855 (9th Cir. 2003) (where the issue before the court is nonreviewable, so is the BIA's decision to summarily affirm).

PETITION FOR REVIEW DISMISSED.