

FILED

UNITED STATES COURT OF APPEALS

OCT 22 2010

FOR THE NINTH CIRCUIT

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

FRANKLIN AGUSTIN GARCIA-
AUCCA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-71328

Agency No. A046-790-055

ORDER

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

The memorandum disposition filed on July 7, 2010, is withdrawn. A replacement memorandum disposition will be filed concurrently with this order.

FILED

OCT 22 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANKLIN AGUSTIN GARCIA-
AUCCA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-71328

Agency No. A046-790-055

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Franklin Agustin Garcia-Aucca, native and citizen of Peru, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming the immigration judge's ("IJ") denial of his application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have

* 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).

jurisdiction under 8 U.S.C. § 1252. *See Bromfield v. Mukasey*, 543 F.3d 1071, 1075 (9th Cir. 2008) (holding that the jurisdiction stripping provision found at 8 U.S.C. § 1242(a)(2)(C) applies only to removal orders, not to applications for asylum, withholding of removal, or CAT relief). We deny the petition for review.

The BIA did not abuse its discretion in declining to accept Garcia-Aucca's untimely brief. *See Zetino v. Holder*, No. 08-70390, 2010 WL 3385957, *4 (9th Cir. Aug. 30, 2010) (concluding the applicable regulations indicate the BIA "*could have considered*" the brief, but it was under no obligation to do so, and the BIA did not act arbitrarily, irrationally, or contrary to the law in denying it) (emphasis in original).

Garcia-Aucca does not challenge the BIA and IJ's denial of his asylum, withholding of removal, and CAT claims, and has therefore waived these issues. *See Martinez-Serrano*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) ("Issues raised in a brief that are not supported by argument are deemed abandoned.").

PETITION FOR REVIEW DENIED.