

OCT 25 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SAMEER IBRAHIM NEMER TOMA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72082

Agency No. A097-837-774

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Sameer Ibrahim Nemer Toma, a native and citizen of Jordan, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for adjustment of status. Our jurisdiction is governed by 8 U.S.C. § 1252. We review

* 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).

for substantial evidence the agency's factual findings, *Hernandez v. Mukasey*, 345 F.3d 824, 832 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

The agency properly concluded that Toma failed to establish that he was the beneficiary of an approved visa petition: a requirement for his application for adjustment of status to proceed. *See* 8 U.S.C. § 1255(i)(B); *cf. Hernandez*, 345 F.3d at 843.

We also lack jurisdiction to review Toma's unexhausted ineffective assistance of counsel claim. *See Puga v. Chertoff*, 488 F.3d 812, 815-16 (9th Cir. 2007).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.