

FEB 23 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LODIR MIKAELI SIWAJIAN,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 08-70845

Agency No. A078-440-629

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Lodir Mikaeli Siwajian, a native and citizen of Lebanon, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to remand and dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for cancellation of removal. We have jurisdiction under

* 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).

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to remand, *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1062 (9th Cir. 2008), and review de novo claims of due process violations in immigration proceedings, *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Siwajian's motion to remand because an immigrant visa was not immediately available to him. *See* 8 U.S.C. § 1255(a); *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to remand shall be reversed only if it is arbitrary, irrational, or contrary to law).

Siwajian's contention that the IJ's alleged bias violated due process fails because he did not demonstrate prejudice. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring prejudice for a petitioner to prevail on a due process claim).

Pro bono counsel's motion to withdraw from representing petitioner is granted.

PETITION FOR REVIEW DENIED.