

JUN 24 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANIEL JAIMES-REYES,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 10-71169

Agency No. A095-747-163

MEMORANDUM*

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

Submitted June 15, 2011**

Before: CANBY, O’SANNLAIN and FISHER, Circuit Judges.

Daniel Jaimes-Reyes, a native and citizen of Mexico, petitions for review of a Board of Immigration Appeals order dismissing his appeal from an immigration judge’s (IJ) denial of his application for cancellation of removal. Our jurisdiction

* 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). Accordingly, we deny petitioner’s request for oral argument.

is governed by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency's discretionary determination that Jaimes-Reyes failed to show exceptional and extremely unusual hardship to his U.S. citizen children. 8 U.S.C. § 1252(a)(2)(B); *Mendez-Castro v. Mukasey*, 552 F.3d 975, 979 (9th Cir. 2009).

Jaimes-Reyes contends the IJ violated due process by refusing to admit into evidence a psychological evaluation submitted on the day of the hearing. Contrary to Jaimes-Reyes's contention, the proceedings were not "so fundamentally unfair that [he] was prevented from reasonably presenting [his] case." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted). Moreover, Jaimes-Reyes failed to demonstrate that the additional evidence would have affected the outcome of the proceedings. *See id.* (requiring prejudice to prevail on a due process challenge).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.