

SEP 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANTONIO CASTANEDA-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-72233

Agency No. A095-310-057

MEMORANDUM*

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

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Antonio Castaneda-Rodriguez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, *Gil v. Holder*, 651 F.3d

* 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).

1000, 1003 (9th Cir. 2011), and we deny in part and dismiss in part the petition for review.

The BIA properly declined to reinstate Castaneda-Rodriguez's voluntary departure period for failure to timely submit proof of having posted his voluntary departure bond. *See* 8 C.F.R. § 1240.26(c)(3)(ii). Although Castaneda-Rodriguez has submitted new evidence with his petition for review, our review is limited to the administrative record and we cannot consider evidence that was not before the BIA. *See* 8 U.S.C. § 1252(b)(4)(A). Castaneda-Rodriguez should have filed a motion to reconsider before the BIA.

We lack jurisdiction to review Castaneda-Rodriguez's contention that he qualifies for cancellation of removal because he failed to raise that issue before the BIA and thereby failed to exhaust his administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.