

DEC 12 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PETER CHIDET MADUIKE,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 11-72974

Agency No. A072-833-707

MEMORANDUM\*

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

Submitted November 19, 2013\*\*

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Peter Chidet Maduiké, a native and citizen of Nigeria, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his request for a continuance and ordering him removed. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny

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\* 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).

in part and dismiss in part the petition for review.

In his opening brief, Maduiké fails to raise, and therefore has waived, any challenge to the agency's denial of Maduiké's ninth motion for a continuance. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (issues not raised in a petitioner's opening brief are deemed waived).

To the extent Maduiké challenges the BIA's 2009 order, we lack jurisdiction to consider his challenge because that order is not a final order of removal. *See* 8 U.S.C. § 1252.

We also lack jurisdiction to consider Maduiké's contention regarding the approved visa petition filed on his behalf by his U.S. citizen daughter because he failed to raise that contention before the agency in relation to the order under review, and therefore failed to exhaust his administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). We do not consider the supplemental material filed by Maduiké because it is not part of the administrative record. *See* 8 U.S.C. § 1252(b)(4)(A); *Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**