

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 18 2013

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

JAIME SALDANA-GUTIERREZ, a.k.a.
Jaime Gutierrez Saldana, a.k.a. Jaime
Gutierrez Saldana, a.k.a. Jaime Gutierrezd
Saldana, a.k.a. Jaime Saldana, a.k.a. Jaime
G. Saldana, a.k.a. Jaime Saldana Gutierrea,
a.k.a. Jaime Saldana Gutierrez, a.k.a.
Jaime Salidana Lotierrez,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-71569

Agency No. A073-818-147

MEMORANDUM*

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

Submitted December 17, 2013**

Before: GOODWIN, WALLACE, and GRABER, Circuit Judges.

Jaime Saldana-Gutierrez, a native and citizen of Mexico, petitions pro se for

* 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).

review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's removal order and denying his motion to remand. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law. *Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

The BIA correctly concluded that, under the modified categorical approach, Saldana-Gutierrez's conviction for possession of a firearm by a felon with a two-year sentence of imprisonment qualified as an aggravated felony under 8 U.S.C. § 1101(a)(43)(E). *See United States v. Castillo-Rivera*, 244 F.3d 1020, 1022-23 (9th Cir. 2001).

In his opening brief, Saldana-Gutierrez fails to address, and therefore has waived any challenge to, the BIA's denial of his motion to remand to apply for asylum, withholding of removal, and Convention Against Torture protection. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (a petitioner waives an issue by failing to raise it in the opening brief).

Saldana-Gutierrez's contention that his removal was unlawful is without merit. *See* 8 U.S.C. § 1252(b)(3)(B).

We lack jurisdiction to review the claims raised in Saldana-Gutierrez's July 2012 motion to reopen because he did not file a petition for review of the BIA's order denying that motion. *See* 8 U.S.C. § 1252.

We also lack jurisdiction to review Saldana-Gutierrez's remaining contentions because they are unexhausted. *See Barron*, 358 F.3d at 677-78.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.