

MAY 28 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EDUARDO ARTURO CARDENAS-SOSA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 13-70213

Agency No. A205-314-034

MEMORANDUM*

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

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Eduardo Arturo Cardenas-Sosa, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to remand based on ineffective assistance of counsel. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA’s denial

* 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).

of a motion to remand, *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005), and review de novo questions of law, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Cardenas-Sosa's motion to remand on the ground that he did not establish prejudice where he has not identified what additional evidence his former counsel should have submitted to the immigration judge in support of cancellation of removal, or articulated a specific claim for additional forms of relief. *See id.* at 793-94 (prejudice results when counsel's performance "was so inadequate that it may have affected the outcome of the proceedings"); *see also Ortiz v. INS*, 179 F.3d 1148, 1153-54 (9th Cir. 1999) (no prejudice where petitioners failed to describe the evidence that counsel incompetently failed to introduce). It follows that his due process claim fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on a due process claim).

We lack jurisdiction to review Cardenas-Sosa's unexhausted claim that he received ineffective assistance from his former attorney who represented him before the BIA. *See Puga v. Chertoff*, 488 F.3d 812, 815-816 (9th Cir. 2007) (ineffective assistance of counsel claims must be raised in a motion to reopen before the BIA).

The Clerk shall also serve a copy of the order on Cardenas-Sosa at Pinal County Adult Detention Center, 971 N. Jason Lopez Circle, Building B, Florence, AZ 85132. Cardenas-Sosa is reminded that local court rules require petitioner to keep the court informed of his current address. *See* 9th Cir. R. 46-3.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.