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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS PADILLA-RAZO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 13-72003

Agency No. A086-917-032

MEMORANDUM*

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

January 21, 2015**

Before: CANBY, GOULD, and N.R. SMITH, Circuit Judges.

Jose Luis Padilla-Razo, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order of removal. We deny in part and dismiss in part the petition for review.

* 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).

Padilla-Razo has not challenged the agency's dispositive determination that he is removable under 8 U.S.C. § 1227(a)(2)(B)(i) based on his conviction for an offense relating to a controlled substance, or the agency's determination that he is not eligible for relief from removal. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (issues not raised in opening brief are waived).

Padilla-Razo's challenge to the agency's denial of his request for release from immigration custody on the condition of bond is not properly before us. *See* 8 U.S.C. § 1226(e); 8 C.F.R. § 1003.19(d); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011) (clarifying the proper procedure for challenging a *Casas-Castrillon* bond determination).

This dismissal is without prejudice to petitioner's seeking prosecutorial discretion or deferred action from the Department of Homeland Security. *See Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 483-85 (1999) (stating that prosecutorial discretion by the agency can be granted at any stage, including after the conclusion of judicial review).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.