

MAR 16 2015

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

XAVIER MABALE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 13-71323

Agency No. A095-743-512

MEMORANDUM*

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

Submitted March 10, 2015**

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Xavier Mabale, a native and citizen of Kenya, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We dismiss 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).

We lack jurisdiction to review Mabale’s challenge to the BIA’s determination that the evidence he submitted with his motion to reopen did not alter its previous decision to deny his application for a waiver of inadmissibility under 8 U.S.C. § 1182(h) as a matter of discretion. *See Mejia v. Gonzales*, 499 F.3d 991, 999 (9th Cir. 2007) (we lack jurisdiction to review the discretionary denial of a waiver under 8 U.S.C. § 1182(h)); *Fernandez v. Gonzales*, 439 F.3d 592, 602 (9th Cir. 2006) (under 8 U.S.C. § 1252(a)(2)(B)(i), we lack jurisdiction over motions to reopen regarding cases in which the agency has already “made a prior discretionary determination concerning the relief sought”). Mabale has not raised a colorable legal or constitutional claim that would restore our jurisdiction. *See* 8 U.S.C. § 1252(a)(2)(D).

The motion of Mabale’s retained counsel, Ahmed M. Abdallah, to withdraw as counsel of record is granted. The Clerk shall enter on the docket petitioner, 1540 E. Cornfield Ln., Unit 41, Anaheim, CA 92305, as appearing pro se. The Clerk shall serve this memorandum disposition on former counsel and on petitioner individually.

PETITION FOR REVIEW DISMISSED.