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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RENE MANDRUGANO-TOLENTINO,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-71291

Agency No. A205-321-219

MEMORANDUM*

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

Submitted August 25, 2015**

Before: McKEOWN, CLIFTON, and HURWITZ, Circuit Judges.

Rene Mandrugano-Tolentino, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law.

* 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).

Lopez-Vasquez v. Holder, 706 F.3d 1072, 1078 (9th Cir. 2013). We deny in part and dismiss in part the petition for review.

The BIA did not err in determining that Mandrugano-Tolentino failed to demonstrate his eligibility for any form of relief, including cancellation of removal under 8 U.S.C. § 1229b or adjustment of status under 8 U.S.C. § 1255(a). *See* 8 C.F.R. § 1240.8(d) (alien bears the burden of establishing eligibility for relief from removal).

Accordingly, Mandrugano-Tolentino has not established prejudice from the IJ pretermittting relief before he filed an application for cancellation of removal. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (to prevail on a due process challenge, an alien must show error and prejudice).

We lack jurisdiction to review Mandrugano-Tolentino’s unexhausted contention regarding relief under the Federal First Offender Act, 18 U.S.C. § 3607. *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (“We lack jurisdiction to review legal claims not presented in an alien’s administrative proceedings before the BIA.”).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.