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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE DANIEL GOMEZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-74039

Agency No. A070-943-998

MEMORANDUM\*

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

Submitted July 26, 2016\*\*

Before: SCHROEDER, CANBY, and CALLAHAN, Circuit Judges.

Jose Daniel Gomez, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his applications for relief from removal.

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\* 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).

Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

In his opening brief, Gomez does not raise, and therefore has waived, any challenge to the agency's determinations that he is removable, and that he failed to demonstrate eligibility for relief from removal. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (a petitioner waives an issue by failing to raise it in the opening brief).

To the extent Gomez contends he is eligible for prosecutorial discretion, we lack jurisdiction to consider his contention. *See Vilchiz-Soto v. Holder*, 688 F.3d 642, 644 (9th Cir. 2012).

We lack jurisdiction to consider Gomez's unexhausted contention regarding his counsel in criminal proceedings. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

We grant the government's motion to strike new evidence (Docket Entry No. 33). *See Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (explaining standard for review of out-of-record evidence).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**