

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2016

FOR THE NINTH CIRCUIT

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

NOEL NAVA-MENDOZA, AKA Noel  
Mendoza Nava, AKA Noel Nava,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 15-70916

Agency No. A205-722-185

MEMORANDUM\*

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

Submitted August 16, 2016\*\*

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Noel Nava-Mendoza, 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 final order of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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 the agency's discretionary determination that Nava-Mendoza failed to show exceptional and extremely unusual hardship to a qualifying relative, and is therefore ineligible for cancellation of removal. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

To the extent that Nava-Mendoza challenges the consideration of his criminal history in the agency's determination, this history did not factor into the dispositive hardship determination, and therefore we need not address it. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004).

Nava-Mendoza failed to address his claims for asylum, withholding of removal, and relief under the Convention Against Torture in his opening brief, and declined to file a supplemental brief addressing these claims when given the opportunity to do so by this court. *See* Docket Entry No. 11. As such, he has waived any challenge to the agency's determination that he failed to establish eligibility for these forms of relief. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (issues not raised in the opening brief are waived).

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