

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 20 2017

FOR THE NINTH CIRCUIT

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

JOSE JAIME IBARRA-MORALES,

No. 14-71842

Petitioner,

Agency No. A075-743-569

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Jose Jaime Ibarra-Morales, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his motion to terminate. 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 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).

and constitutional claims. *Roman-Suaste v. Holder*, 766 F.3d 1035, 1038 (9th Cir. 2014). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Ibarra-Morales's contention that his judgment of conviction is facially invalid, because this claim functions as an impermissible collateral attack upon his state court conviction. *See Ramirez-Villalpando v. Holder*, 645 F.3d 1035, 1041 (9th Cir. 2010) (holding that petitioner could not collaterally attack his state court conviction on a petition for review of a BIA decision).

Contrary to Ibarra-Morales' contention, the BIA did not mischaracterize his motion to terminate as a collateral attack on his state court conviction or ignore or misapply relevant law. Accordingly, Ibarra-Morales has failed to show the agency violated due process. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (an alien must show error and substantial prejudice to prevail on a due process claim).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.