

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 21 2018

FOR THE NINTH CIRCUIT

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

FRANCISCO ANDRADE-VARGAS,

No. 16-73856

Petitioner,

Agency No. A206-567-351

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted May 15, 2018**

Before: SILVERMAN, BEA, and WATFORD, Circuit Judges.

Francisco Andrade-Vargas, 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") decision denying his application for cancellation of removal. We dismiss the petition for review.

* 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 Andrade-Vargas failed to show exceptional and extremely unusual hardship to his qualifying relatives. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). Although the court would retain jurisdiction over colorable questions of law and constitutional claims, Andrade-Vargas has raised no such contention. *See id.*

Andrade-Vargas contends the IJ failed to consider the hardship his children would face in Mexico, due to general dangers and their lack of Spanish fluency. We lack jurisdiction to consider this unexhausted contention, where Andrade-Vargas and his witnesses previously testified that his children would remain in the United States following his removal. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims not presented in the petitioner's administrative proceedings before the BIA).

To the extent Andrade-Vargas contends the IJ erred in denying his alleged request for a continuance or administrative closure, we lack jurisdiction to consider this unexhausted contention. *Id.*

PETITION FOR REVIEW DISMISSED.