

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 19 2018

FOR THE NINTH CIRCUIT

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

HUGO ALBERTO OLIVAS-
ESCALANTE,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 16-73736

Agency No. A200-607-747

MEMORANDUM*

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

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Hugo Alberto Olivas-Escalante, 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 ("IJ") decision denying his application for

* 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).

cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Olivas-Escalante has waived any challenge to the agency's determination that he is statutorily ineligible for cancellation of removal due to his conviction for felony endangerment under Arizona Revised Statute § 13-1201. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (issues not raised in an opening brief are waived). To the extent Olivas-Escalante contends the agency denied cancellation of removal as a matter of discretion, the record does not support this contention.

Olivas-Escalante establishes no error in the agency's administrative closure determination, where the BIA denied based on the factors applicable at the time of its decision, and he did not request administrative closure before the IJ. *See Gonzalez-Caraveo v. Sessions*, 882 F.3d 885, 891 (9th Cir. 2018).

PETITION FOR REVIEW DENIED.