

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 6 2020

FOR THE NINTH CIRCUIT

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

JESUS ANTONIO PADILLA SALDANA,

No. 17-70146

Petitioner,

Agency No. A200-157-179

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

Jesus Antonio Padilla Saldana, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to remand removal proceedings based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to remand and review de novo claims of due process violations in

* 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).

immigration proceedings. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Padilla Saldana's motion to remand where he failed to establish prejudice from the alleged ineffective assistance of former counsel. *See id.* at 793 (requiring prejudice to state valid claim of ineffective assistance of counsel).

We do not consider the evidence submitted to this court with Padilla Saldana's motion for a stay of removal because this evidence was not part of the administrative record when the BIA issued the order on review. *See* 8 U.S.C. § 1252(b)(4)(A) (judicial review is limited to the administrative record); *see also Doissant v. Mukasey*, 538 F.3d 1167, 1170 (9th Cir. 2008) (the court considers only the grounds relied upon by that agency).

PETITION FOR REVIEW DENIED.