

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 21 2021

FOR THE NINTH CIRCUIT

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

EDUARDO RODRIGUEZ-MENDIOLA,

No. 19-72237

Petitioner,

Agency No. A213-018-688

v.

MEMORANDUM*

MERRICK B. GARLAND, Attorney
General,

Respondent.

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

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Eduardo Rodriguez-Mendiola, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order declining to remand and dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for cancellation of removal. Our jurisdiction is governed by 8 U.S.C.

* 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).

§ 1252. We dismiss in part and deny in part the petition for review.

The BIA denied cancellation of removal as a matter of discretion and this court lacks jurisdiction to review such discretionary decisions. *See* 8 U.S.C.

§ 1252(a)(2)(B)(i); *see also Romero-Torres v. Ashcroft*, 327 F.3d 887, 890 (9th Cir. 2003) (discussing the court’s lack of jurisdiction to review a discretionary cancellation of removal determination and the related exception that the court retains jurisdiction to review “purely legal” questions).

In his opening brief, Rodriguez-Mendiola does not raise any challenge to the BIA’s decision not to remand his removal proceedings to the IJ. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party’s opening brief are waived).

We lack jurisdiction to consider Rodriguez-Mendiola’s contention that the IJ violated his right to due process. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (requiring exhaustion of procedural errors that could be corrected by the BIA).

The temporary stay of removal remains in place until issuance of the mandate.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.