

DEC 28 2007

NOT FOR PUBLICATION

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANTONIO ROLDAN-GALLEGOS,  
MA MERCED RESENDIZ DE ROLDAN,  
APALONIA ROLDAN-RESENDIZ,  
ANTONIO ROLDAN-RESENDIZ, and  
MIRELLA ROLDAN-RESENDIZ,

Petitioners,

v.

MICHAEL B. MUKASEY,\* Attorney  
General,,

Respondent.

No. 05-73789

Agency Nos. A-76-860-401  
A-76-860-402  
A-76-860-405  
A-76-860-406  
A-76-860-407

MEMORANDUM\*\*

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

Submitted December 3, 2007\*\*\*

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges

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\* Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Federal Rule of Appellate Procedure 43(c)(2).

\*\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Lead petitioner Antonio Roldan-Gallegos and his wife and three children, all natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order adopting and affirming an Immigration Judge's ("IJ") decision denying Petitioners' applications for asylum, withholding of removal, protection under the Convention Against Torture (CAT), and cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of due-process violations. *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We deny in part and dismiss in part the petition for review.

Petitioners contend that the IJ violated due process by ignoring evidence relevant to their applications for cancellation of removal, and failing to investigate adequately those applications. Contrary to Petitioners' contentions, the proceedings were not "so fundamentally unfair that [they were] prevented from reasonably presenting [their] case." *Id.* (citation omitted). Moreover, Petitioners have failed to specify what evidence was ignored or not developed, and have not explained how the evidence would have affected the outcome of the proceedings. *See id.* (requiring prejudice to prevail on a due process challenge).

Petitioners also contend that the IJ violated due process by departing from proper procedure, failing to provide them an adequate opportunity to obtain new

counsel, failing to investigate adequately the asylum and withholding-of-removal claims, and ignoring evidence relevant to the asylum and withholding-of-removal claims. Even though we construe Petitioners' pro se notice of appeal to the BIA liberally, *see Barron v. Ashcroft*, 358 F.3d 674, 676 n.4 (9th Cir. 2004), we lack jurisdiction to review these contentions because Petitioners failed to raise them before the BIA. *See id.* at 678 (due process challenges that are "procedural in nature" must be exhausted).

We also lack jurisdiction to review the agency's discretionary determination that Roldan-Gallegos and Resendiz de Roldan failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**