

SEP 10 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RODOLFO LOPEZ SEPULVEDA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74280

Agency No. A98-289-576

MEMORANDUM*

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

Submitted September 8, 2008**

Before: TASHIMA, SILVERMAN, and N.R. SMITH, Circuit Judges.

Rodolfo Lopez Sepulveda, 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 applications for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings. *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny in part and dismiss in part the petition for review.

We reject Lopez Sepulveda’s contention that the IJ violated due process by depriving him of a full and fair hearing, because the proceedings were not “so fundamentally unfair that [he] was prevented from reasonably presenting his case.” *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (internal quotation marks and citation omitted). In addition, Lopez Sepulveda cannot demonstrate prejudice from the IJ’s reliance on his escape conviction, which was one of several independent grounds for denying relief. *See id.* (requiring prejudice to prevail on a due process claim).

To the extent Lopez Sepulveda contends that he is eligible for asylum or withholding of removal, we lack jurisdiction to review these contentions because he failed to exhaust them before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (this court generally lacks jurisdiction to review contentions not raised before the agency).

Lopez Sepulveda's remaining contentions are unpersuasive.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.