

APR 28 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERNANDO ALAMILLO-QUINONES,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72351

Agency No. A79-395-039

MEMORANDUM*

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

Submitted April 22, 2008**

Before: GRABER, FISHER and BERZON, Circuit Judges.

Fernando Alamillo-Quinones, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming

* 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).

an immigration judge's ("IJ") decision denying his application for adjustment of status. Our jurisdiction is governed by 8 U.S.C. §1252. We have jurisdiction to decide, as a matter of law, whether an alien is statutorily eligible for adjustment of status 8 U.S.C. § 1252(a)(2)(D). We deny in part and dismiss in part the petition for review.

The IJ properly determined that Alamillo-Quinones was not eligible for adjustment of status because he lacked an approved visa petition. *See id.* § 1255(i). Alamillo-Quinones' due process argument fails because he fails to show clear error. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

We lack jurisdiction to consider Alamillo-Quinones' request for cancellation of removal because he did not make that application before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (explaining that this court lacks jurisdiction to review contentions not raised before the agency).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.