

JUL 11 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE ABRAHAM PALAFOX,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 05-76519

Agency No. A72-112-547

MEMORANDUM\*

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

Submitted July 1, 2008\*\*

Before: WALLACE, HAWKINS and THOMAS, Circuit Judges.

Jose Abraham Palafox, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an

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\* 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).

immigration judge's ("IJ") decision denying his application for cancellation of removal. We dismiss the petition for review.

We lack jurisdiction to review the IJ's discretionary determination that Palafox failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). We do not consider Palafox's contention regarding physical presence because Palafox's failure to establish hardship is dispositive.

**PETITION FOR REVIEW DISMISSED.**