

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 23 2007

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

CAMILO HERNANDEZ-REAL,

Petitioner,

v.

PETER D. KEISLER, Acting Attorney
General,**

Respondent.

No. 06-71157

Agency No. A28-728-616

MEMORANDUM*

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

Submitted October 15, 2007***
Pasadena, California

Before: **KOZINSKI, TASHIMA and McKEOWN**, Circuit Judges.

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

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

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

1. The IJ didn't err by applying the valid "exceptional and extremely unusual hardship" standard under 8 C.F.R. § 212.7(d). See Mejia v. Gonzales, Nos. 04-74001+, slip op. at 10491, 10499 (9th Cir. Aug. 24, 2007). We have rejected petitioner's argument that 8 C.F.R. § 212.7(d) cannot be applied retroactively. See Mejia, slip op. at 10501.

2. We lack jurisdiction to review the denial of a petition under this standard, see 8 U.S.C. § 1252(a)(2)(B), because such a denial is entirely within the agency's discretion. See Mejia, slip op. at 10505. Petitioner also failed to exhaust his administrative remedies for obtaining a waiver under 8 U.S.C. § 1182(h)(1)(A), see 8 C.F.R. § 1003.3(b), so we lack jurisdiction to review this claim. 8 U.S.C. § 1252(d)(1).

PETITION DENIED in part and DISMISSED in part.