

APR 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ABDUL-WASIU SHO-OJA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 04-76083

Agency No. A072-308-120

MEMORANDUM*

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

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Abdul-Wasiu Sho-Oja, a native and citizen of Nigeria, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider and reopen its prior order dismissing his appeal from an immigration

* 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).

judge's decision to deny adjustment of status. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005), we deny the petition for review.

The BIA did not abuse its discretion in denying Sho-Oja's motion to reopen to present further evidence regarding adjustment because an immigrant visa was not immediately available to him. *See* 8 U.S.C. § 1255(a) (stating that "an immigrant visa [must be] immediately available to the alien at the time the application [for adjustment of status] is filed").

In his opening brief, Sho-Oja fails to address, and therefore has waived any challenge to, the BIA's denial of his motion for reconsideration and reopening to pursue relief under the Convention Against Torture. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not supported by argument are deemed abandoned).

Sho-Oja's due process contention is unavailing.

Sho-Oja's counsel is cautioned that his opening brief, which includes no record citations and no standard of review, does not meet this court's standards. *See generally* Fed. R. App. P. 28; 9th Cir. R. 28-2.8.

PETITION FOR REVIEW DENIED.