

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 20 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ROBERTO GERMAN TEPOZTECO-
RIOS, AKA Roberto Rios, AKA Roberto
Tepozteco,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 16-72198

Agency No. A205-712-052

MEMORANDUM*

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

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Roberto German Tepozteco-Rios, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") removal order. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

under 8 U.S.C. § 1252. We review de novo questions of law. *Tawadrus v. Ashcroft*, 364 F.3d 1099, 1102 (9th Cir. 2004). We deny the petition for review.

We reject Tepozteco-Rios's contention that the agency denied his right to counsel and violated due process, where he expressly opted to continue unrepresented after the IJ asked if he would like more time to find an attorney. *See id.* at 1103 (explaining requirements for waiver of right to counsel); *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and substantial prejudice to prevail on a due process claim).

The BIA did not err in rejecting Tepozteco-Rios's unsupported contentions that he was incapable of representing himself and that he fears returning to Mexico. *See Carrillo-Gonzalez v. INS*, 353 F.3d 1077, 1079 (9th Cir. 2003) (argument of counsel does not constitute evidence).

PETITION FOR REVIEW DENIED.