

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1111

OSCAR BALBUENA TORRES; YOLANDA BALBUENA,

Petitioners,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A95-909-542; A95-909-526)

Submitted: January 17, 2007

Decided: June 11, 2007

Before WILLIAMS and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition dismissed by unpublished per curiam opinion.

Ivan Yacub, LAW OFFICE OF IVAN YACUB, Falls Church, Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney General, Michelle G. Latour, Assistant Director, Michele Y. F. Sarko, OFFICE OF IMMIGRATION LITIGATION, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Oscar Balbuena Torres and his wife, Yolanda Balbuena, both natives and citizens of Mexico, petition for review of an order of the Board of Immigration Appeals (Board) affirming without opinion the Immigration Judge's (IJ) order denying Balbuena Torres's application for adjustment of status.

Balbuena Torres concedes that pursuant to 8 C.F.R. § 1245.10(j) (2006), he is barred from eligibility for adjustment of status under 8 U.S.C.A. § 1255(i) (West 2005), because he was substituted as a beneficiary of the relevant labor certification after April 30, 2001. He contends, however, that the regulation in question should be invalidated as contrary to the statute, which he asserts is employment based and should be read in the light most favorable to the alien. Because Balbuena Torres did not raise these specific claims before the Board on appeal from the decision of the IJ, we find that we are without jurisdiction to review them due to failure to exhaust administrative remedies. See 8 U.S.C. § 1252(d)(1) (2000).

Accordingly, we dismiss the petition for review for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DISMISSED