

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 4, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-60457

Summary Calendar  
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ROLANDO ANTONIO GAITAN-GAMEZ,

Petitioner

v.

ERIC H. HOLDER, JR., U.S. ATTORNEY GENERAL,

Respondent

\_\_\_\_\_  
Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A094 799 089  
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Before JONES, Chief Judge, and WIENER and PRADO, Circuit Judges.

PER CURIAM:\*

Rolando Antonio Gaitan-Gamez, a native and citizen of Nicaragua, petitions this court to review the decision of the Board of Immigration Appeals (BIA) summarily dismissing his appeal pursuant to 8 C.F.R. § 1003.1(d)(2)(i)(E) for failure to file a brief challenging an Immigration Judge's (IJ) denial of his request for voluntary departure. Although Gaitan-Gamez withdrew his applications for asylum, withholding of removal, and relief under the Convention Against Torture at a hearing before the IJ, he argues that his attorney was

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

ineffective for allowing him to withdraw the applications and that his withdrawal was not knowing and voluntary.

Gaitan-Gamez did not argue to the BIA that his attorney was ineffective and the withdrawal of his applications was involuntary. Therefore the issues are unexhausted, and this court lacks jurisdiction to consider them. *See Omari v. Holder*, 562 F.3d 314, 317-19 (5th Cir. 2009); *Wang v. Ashcroft*, 260 F.3d 448, 452-53 (5th Cir. 2001); 8 U.S.C. § 1252(d)(1). Gaitan-Gamez has abandoned any argument concerning the BIA's dismissal of his appeal for failure to brief by failing to argue the issue in this court. *See Soadjede v. Ashcroft*, 324 F.3d 830, 833 (5th Cir. 2003).

Accordingly, the petition for review is DENIED.