

United States Court of Appeals
For the Eighth Circuit

No. 17-1063

Juan Tomas-Antonio

Petitioner

v.

Jefferson B. Sessions, III, Attorney General of United States

Respondent

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

Submitted: September 18, 2017

Filed: September 29, 2017

[Unpublished]

Before WOLLMAN, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Juan Tomas-Antonio, a Guatemalan citizen, petitions for review of a Board of Immigration Appeals (BIA) order upholding the decision of an immigration judge (IJ) denying voluntary departure and finding Tomas-Antonio ineligible for cancellation of removal. We conclude that we lack jurisdiction. We cannot consider any challenge to the IJ's determination that Tomas-Antonio was ineligible for cancellation

of removal based on his cocaine-possession conviction because he did not challenge this determination before the BIA. See Baltti v. Sessions, 862 F.3d 718, 722–23 (8th Cir. 2017) (noting that this Court has jurisdiction to review the BIA’s final order of removal only if the petitioner has exhausted all available administrative remedies and has raised all issues before the BIA). As to the denial of voluntary departure, Tomas-Antonio identifies no question of law or constitutional claim. See Puc-Ruiz v. Holder, 629 F.3d 771, 782 (8th Cir. 2010) (“This Court lacks jurisdiction to review the discretionary denial of voluntary departure . . . unless the denial raises ‘a colorable constitutional claim or question of law.’” (citation to quoted case omitted)). Finally, Tomas-Antonio did not complain of ineffective assistance of counsel in his direct administrative appeal to the BIA nor did he file a motion to reopen, so we cannot review his claim. See Lubale v. Gonzales, 484 F.3d 1078, 1081 (8th Cir. 2007) (explaining that judicial review of an ineffective-assistance claim is precluded if it is not presented to the BIA on direct administrative appeal or in a motion to reopen).

We dismiss Tomas-Antonio’s petition for review for lack of jurisdiction.
