

DEC 21 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>REYNALDO AYON-NUNEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 10-73236

Agency No. A078-057-992

MEMORANDUM*

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

Submitted December 19, 2012**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Reynaldo Ayon-Nunez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen.

We dismiss the petition for review.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

We lack jurisdiction to review the BIA’s denial of Ayon-Nunez’s motion to reopen the discretionary denial of his application for adjustment of status, where the BIA concluded that the new evidence he submitted was insufficient to overcome the significant negative factor in his case and Ayon-Nunez has not raised a colorable due process challenge to the BIA’s discretionary determination that he is not entitled to adjustment of status. *See Bazua-Cota v. Gonzales*, 466 F.3d 747, 748-49 (9th Cir. 2006) (per curiam) (order) (“[T]he decision to deny Petitioner’s application for adjustment of status is a discretionary determination, and is therefore unreviewable.”); *see Fernandez v. Gonzales*, 439 F.3d 592, 601-03 (9th Cir. 2006) (where there has already been an unreviewable discretionary determination this court lacks jurisdiction to review the denial of a motion to reopen concerning the same determination).

In light of our disposition, we do not reach Ayon-Nunez’s remaining contentions.

PETITION FOR REVIEW DISMISSED.