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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTIN SANABRIA-RAMIREZ, AKA
Juan Vasquez-Ramirez,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 16-72667

Agency No. A200-245-096

MEMORANDUM*

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

Submitted November 14, 2022**
Pasadena, California

Before: NGUYEN and FORREST, Circuit Judges, and FITZWATER,** District
Judge.

* 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).

*** The Honorable Sidney A. Fitzwater, United States District Judge for the
Northern District of Texas, sitting by designation.

Martin Sanabria-Ramirez (“Sanabria-Ramirez”), a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA’s”) order dismissing his appeal of the Immigration Judge’s (“IJ’s”) ruling denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). Because this court lacks jurisdiction under 8 U.S.C. § 1252(d)(1), we dismiss the petition for review.

Section 1252(d)(1) of Title 8 of the United States Code provides that “[a] court may review a final order of removal only if . . . the alien has exhausted all administrative remedies available to the alien as of right.” This court has held “that § 1252(d)(1) mandates exhaustion and therefore generally bars us, for lack of subject-matter jurisdiction, from reaching the merits of a legal claim not presented in administrative proceedings below.” *Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). “A petitioner cannot satisfy the exhaustion requirement by making a general challenge to the IJ’s decision, but, rather, must specify which issues form the basis of the appeal.” *Vizcarra-Ayala v. Mukasey*, 514 F.3d 870, 873 (9th Cir. 2008) (quoting *Zara v. Ashcroft*, 383 F.3d 927, 930 (9th Cir. 2004)).

1. Sanabria-Ramirez failed to exhaust his claim that his application for asylum should be considered despite the fact that he failed to meet the filing deadline. Generally, an alien must apply for asylum within one year of arriving in the United

States. 8 U.S.C. § 1158(a)(2)(B); 8 C.F.R. § 208.4(a)(2). Although Sanabria-Ramirez arrived in the United States in 2005, he did not apply for asylum until 2013. The IJ found that Sanabria-Ramirez was ineligible for asylum because he filed outside of the deadline. Sanabria-Ramirez did not specifically appeal this issue to the BIA. Because Sanabria-Ramirez did not exhaust this claim, this court is without jurisdiction to decide his argument that his application for asylum should be considered due to changed circumstances.

2. Sanabria-Ramirez also failed to exhaust his claims for asylum and withholding of removal, as presented to this court, based on membership in a particular social group. In his proceedings before both the IJ and the BIA, Sanabria-Ramirez argued for asylum and withholding of removal based on an imputed political opinion. He argues for the first time in this appeal that he should be granted asylum and withholding of removal based on membership in a particular social group. Because Sanabria-Ramirez has failed to exhaust these claims, we lack jurisdiction to decide whether asylum and withholding of removal should be granted on this basis.

3. Sanabria-Ramirez also failed to exhaust his claim for protection under the CAT. Although the IJ found that Sanabria-Ramirez was not entitled to protection under the CAT, he did not specifically appeal this finding to the BIA. Therefore,

Sanabria-Ramirez has failed to exhaust this claim, and we lack jurisdiction to consider it.

PETITION DISMISSED.