

February 22, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60500
Summary Calendar

OSCAR ELIZONDO,

Petitioner,

versus

ALBERTO R. GONZALES, U.S. Attorney General,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79 465 570

Before REAVLEY, BARKSDALE and STEWART, Circuit Judges.

PER CURIAM:*

The petitioner, Oscar Elizondo, seeks review of the Board of Immigration Appeals (BIA) decision denying his application for the cancellation of removal. He argues that the BIA erred in finding that his removal would not result in extreme hardship to his parents.

Because it involved the exercise of discretion, we lack jurisdiction to review the BIA's hardship determination.

See Rueda v. Ashcroft, 380 F.3d 831, 831 (5th Cir. 2004);

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

8 U.S.C. §§ 1229b(b) and 1252(a)(2)(B)(i). Moreover, to the extent Elizondo argues that we have jurisdiction to review the BIA's interpretation of INA § 213, 8 U.S.C. § 1183, because it is a legal question not subject to the jurisdiction-stripping provision of § 1252(a)(2)(B), see, 8 U.S.C. § 1252(a)(2)(D), his claim is unexhausted, and we are therefore without jurisdiction to consider that claim. See Wang v. Ashcroft, 260 F.3d 448, 452-53 (5th Cir. 2001). Accordingly, Elizondo's petition for review is dismissed for lack of jurisdiction.

PETITION DISMISSED.