

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

December 15, 2010
Elisabeth A. Shumaker
Clerk of Court

LUCIO SALGADO-TORIBIO,

Petitioner,

v.

No. 10-9557

ERIC H. HOLDER, JR., United States
Attorney General,

Respondent.

ORDER

Before **BRISCOE**, Chief Judge, **KELLY** and **GORSUCH**, Circuit Judges.

The petitioner seeks review of a decision by the Board of Immigration Appeals denying his request for cancellation of removal. The government has filed a motion to dismiss, arguing that this court lacks jurisdiction.

The order which the petitioner would like this court to review is a discretionary decision over which this court lacks jurisdiction. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Arambula-Medina v. Holder*, 572 F.3d 824, 828 (10th Cir. 2009), *cert. denied*, 130 S.Ct. 2092 (2010); *Sabido Valdivia v. Gonzales*, 423 F.3d 1144, 1149 (10th Cir. 2005).

This court, however, does retain jurisdiction to review constitutional claims and questions of law involving statutory construction that relate to a cancellation of removal decision. 8 U.S.C. § 1252(a)(2)(D); *see also Alzainati v. Holder*, 568 F.3d 844, 850 (10th Cir. 2009). However, an alien may not simply style claims as constitutional or as raising issues of law merely to overcome the jurisdictional bar. *Id.* at 850-51. *See also Arambula-Medina v. Holder*, 572 F.3d at 828.

Here the petitioner argues that his children would face danger if sent to Mexico given the state of violence there. However, this argument is beyond this court's jurisdiction.

Accordingly, the government's motion to dismiss is **GRANTED**, and this appeal is **DISMISSED**. The petitioner's motion to proceed *in forma pauperis* is **GRANTED**.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



Ellen Rich Reiter
Deputy Clerk/Jurisdictional Attorney