

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1447

CARLOS ALBERTO HERNANDEZ,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

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

Submitted: September 18, 2012

Decided: September 28, 2012

Before KING, DUNCAN, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

William Payne, PAYNE & ASSOCIATES, Washington, D.C., for Petitioner. Stuart F. Delery, Acting Assistant Attorney General, Anthony C. Payne, Senior Litigation Counsel, Yedidya Cohen, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carlos Alberto Hernandez, a native and citizen of El Salvador, petitions for review of an order of the Board of Immigration Appeals ("Board") dismissing his appeal from the immigration judge's order finding him removable and statutorily ineligible for cancellation of removal. Hernandez claims that he was denied due process because the immigration judge failed to give him the proper advisals under 8 C.F.R. § 1240.10(a) (2012). He further claims prejudice is presumed and the case should be remanded. We disagree and deny the petition for review.

This court has held that for an alien to establish a due process violation arising from a removal proceeding, the alien must show "(1) that a defect in the proceeding rendered it fundamentally unfair and (2) that the defect prejudiced the outcome of the case." Anim v. Mukasey, 535 F.3d 243, 256 (4th Cir. 2008). Prejudice is shown if the defect had an impact on the results of the proceeding. Id. Hernandez fails to show he was prejudiced due to any defect in the proceeding. See Delgado-Corea v. INS, 804 F.2d 261, 262-63 (4th Cir. 1986).

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED