

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-60410
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 9, 2014

Lyle W. Cayce
Clerk

SERGIO SALDANA-DE LA CRUZ,

Petitioner

v.

ERIC H. HOLDER, JR., U.S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A039 099 725

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Mexican citizen Sergio Saldana-De La Cruz (Saldana) petitions for review of the decision of the Board of Immigration Appeals (BIA) denying his application for deferral of removal pursuant to the Convention Against Torture (CAT). Saldana contends that the BIA and Immigration Judge, whose opinion was adopted by the BIA, employed the wrong standards of proof when

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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considering his CAT claim and that his CAT claim should be considered on its merits using the correct legal standards.

The argument as to the standards of review employed by the IJ and BIA was not raised before the BIA. The argument was not exhausted, and we lack jurisdiction to review it. *See Omari v. Holder*, 562 F.3d 314, 318 (5th Cir. 2009). Because Saldana was convicted of an aggravated felony offense, we lack jurisdiction to consider the merits of his CAT claim. *See* 8 U.S.C. § 1252(a)(2)(C).

PETITION FOR REVIEW DISMISSED.