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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ETOP MORGAN EKWERE,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 05-73061

Agency No. A023-717-574

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Etop Morgan Ekwere, a native and citizen of Nigeria, seeks review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings to apply for relief under the Convention Against Torture. We

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), we deny the petition for review.

The BIA did not abuse its discretion in denying Ekwere's motion to reopen proceedings because the BIA considered the evidence he submitted and acted within its discretion in determining that the evidence was insufficient to warrant a reopening. *See id.*; *see also In re M-B-A-*, 23 I & N Dec. 474, 479 (BIA 2002).

PETITION FOR REVIEW DENIED.