

JUL 07 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN FRANCISCO HERNANDEZ-  
HERNANDEZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-71032

Agency No. A072-868-605

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.

Juan Francisco Hernandez-Hernandez, a native and citizen of El Salvador,  
petitions for review of the Board of Immigration Appeals' ("BIA") order  
dismissing his appeal from an immigration judge's order denying his motion to

---

\* 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).

rescind a deportation order entered in absentia. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion in denying Hernandez-Hernandez's motion to reopen on the ground that he had received the required notices in his proceedings. *See* 8 U.S.C. § 1252b(a)(3) (repealed 1996).

Hernandez-Hernandez's due process claim regarding the translation of his order to show cause fails because it is not supported by the record. *See Khan v. Ashcroft*, 374 F.3d 825, 828-29 (9th Cir. 2004) (due process satisfied by actual notice). We do not reach Hernandez-Hernandez's contention that he was denied due process because he did not receive a Spanish version of the notice of hearing as he did not exhaust this contention before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED.**