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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SHIDONG NI,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-71138

Agency No. A096-401-419

MEMORANDUM\*

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

Submitted July 14, 2009\*\*

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Shidong Ni, a native and citizen of China, petitions for review of the Board of Immigration Appeals (“BIA”) order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of

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\* 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).

a motion to reopen, *Reyes v. Ashcroft*, 358 F.3d 592, 595 (9th Cir. 2004), and review de novo claims of due process violations, *Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006). We deny in the petition for review.

The BIA did not abuse its discretion in denying Ni's motion to reopen claiming ineffective assistance of counsel because Ni did not satisfy the requirements set forth in *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), and the alleged ineffective assistance is not "obvious and undisputed on the face of the record." *See Reyes*, 358 F.3d at 597. It follows that Ni has not shown a due process violation. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2006) (requiring error for a due process violation).

**PETITION FOR REVIEW DENIED.**