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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ANTONIO RODRIGUEZ-  
MARTINEZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-75034

Agency No. A026-741-848

MEMORANDUM\*

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

Submitted February 16, 2010\*\*

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Jose Antonio Rodriguez-Martinez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying his motion to reopen

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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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deportation proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002). We deny the petition for review.

The agency did not abuse its discretion in denying Rodriguez-Martinez's motion to reopen because Rodriguez-Martinez's mistaken belief that his hearing was one week later does not constitute exceptional circumstances within the meaning of 8 U.S.C. § 1229a(e)(1) and his only possibility of relief is a discretionary grant of cancellation of removal. *See Valencia-Fragoso v. INS*, 321 F. 3d 1204, 1206 (9th Cir. 2003) (per curiam) (no showing of exceptional circumstance and only possibility of relief was discretionary grant of voluntary departure).

**PETITION FOR REVIEW DENIED.**