

APR 13 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VICTOR MANUEL BRISENO
GODINEZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-74520

Agency No. A095-178-461

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Victor Manuel Briseno Godinez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252.

We review for abuse of discretion the denial of a motion to reopen. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion when it denied Briseno Godinez's motion to reopen because he failed to voluntarily depart during his voluntary departure period, and is therefore ineligible for cancellation of removal. *See* 8 U.S.C. § 1229c(d)(1); *cf. Matter of Zmijewska*, 24 I. & N. Dec. 87, 94 (BIA 2007).

We need not address Briseno Godinez's remaining contentions, as they are foreclosed by his ineligibility for relief.

PETITION FOR REVIEW DENIED.