

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 14 2010

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

LIANJUN TENG,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-72916

Agency No. A099-371-171

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.

Lianjun Teng, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo questions of law, including claims of due process violations due to ineffective assistance of counsel. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We grant the petition for review and remand for further proceedings.

The BIA abused its discretion in denying Teng's motion for failure to comply with the requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), because Teng demonstrated substantial compliance where he submitted a detailed declaration explaining his reasons for not filing a disciplinary complaint against his attorney. *See Lo v. Ashcroft*, 341 F.3d 934, 937-38 (9th Cir. 2003) (sufficient compliance with *Lozada* where petitioner, *inter alia*, explained absence of bar complaint).

PETITION FOR REVIEW GRANTED; REMANDED.