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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MAHINDER SINGH,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 09-71731

Agency No. A097-112-815

MEMORANDUM\*

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

Submitted September 13, 2010\*\*

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Mahinder Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse 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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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

The agency did not abuse its discretion in denying Singh's motion to reopen where he did not establish that his failure to appear at his hearing was caused by ineffective assistance of counsel, or another exceptional circumstance beyond his control. *See* 8 C.F.R. § 1003.23(b)(4)(ii); *see also* *Sharma v. INS*, 89 F.3d 545, 548 (9th Cir. 1996); *c.f.* *Monjaraz-Munoz v. INS*, 327 F.3d 892, 897-98 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**