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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HECTOR GUILLERMO MENDEZ-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70276

Agency No. A095-196-475

MEMORANDUM\*

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

Submitted October 19, 2010\*\*

Before: O’SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Hector Guillermo Mendez-Rodriguez, a native and citizen of Guatemala, petitions pro se for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings to apply for asylum, withholding of removal, and protection under the Convention Against Torture. We

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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).

have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004), and we deny the petition for review.

The BIA did not abuse its discretion in denying Mendez-Rodriguez' motion to reopen because the BIA considered the evidence submitted and acted within its broad discretion in determining that Mendez-Rodriguez failed to demonstrate prima facie eligibility for relief. *See INS v. Abudu*, 485 U.S. 94, 104-05, (1988) (the BIA may deny a motion to reopen for failure to establish a prima facie case for the underlying relief sought); *Gormley v. Ashcroft*, 364 F.3d 1172, 1177 (9th Cir. 2004) (random criminal acts bore no nexus to a protected ground).

**PETITION FOR REVIEW DENIED.**