NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO SOTO-CONTRERAS, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 08-74383 Agency No. A070-826-742 MEMORANDUM[*]

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

Submitted December 14, 2010[**]

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Francisco Soto-Contreras, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his motion to reopen deportation proceedings conducted in absentia. We have jurisdiction under

[*] 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).

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Salta v. INS*, 314 F.3d 1076, 1078 (9th Cir. 2002), and we review de novo due process claims, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

The agency did not abuse its discretion in denying Soto-Contreras' motion to reopen as untimely, as it was filed more than thirteen years after his final order of removal and he has not established a lack of notice. 8 C.F.R. § 1003.23(b)(4)(iii). The record indicates that Soto-Contreras received his Order to Show Cause, that he was informed in Spanish that he would receive a hearing notice, that he understood he must provide the immigration court with written notice of his change of address, *see* 8 C.F.R. § 3.15(c) (1994), and that the hearing notice was sent by certified mail to his last provided address. *See* 8 U.S.C. § 1252b(c)(1) (1995) (written notice is sufficient if sent to the most recent address provided by alien); *see also Matter of Grijalva*, 21 I. & N. Dec. 27, 32-34 (BIA 1995) (proof of actual service or receipt of the notice by the respondent is not required).

Due process was satisfied because "[t]he method of service was reasonably calculated to ensure that notice reached [Soto-Contreras]." *See Farhoud v. INS*, 122 F.3d 794, 796 (9th Cir. 1997).

To the extent we have jurisdiction to review the BIA's discretionary decision not to reopen proceedings, the BIA acted within its broad discretion in declining to reopen proceedings under 8 C.F. R. § 1003.2(a).

PETITION FOR REVIEW DENIED.