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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE PEREZ-GONZALEZ, a.k.a. Jose C.
Gonzalez, a.k.a. Jose Gonzalez-Perez,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73728

Agency No. A095-819-589

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS O’SANNLAIN, and BYBEE, Circuit Judges.

Jose Perez-Gonzalez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review

* 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).

de novo due process claims, *Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA’s discretionary determination that the evidence Perez-Gonzalez submitted with his motion to reopen was insufficient to warrant reopening. *See id.* at 601 (if “the BIA determines that a motion to reopen proceedings in which there has already been an unreviewable discretionary determination concerning a statutory prerequisite to relief does not make out a prima facie case for that relief,” 8 U.S.C. § 1252(a)(2)(B)(i) bars this court from revisiting the merits).

To the extent Perez-Gonzalez contends that the BIA failed to consider some or all of the evidence he submitted with the motion to reopen, he has not overcome the presumption that the BIA did review the record. *See id.* at 603.

In light of our disposition, we do not reach Perez-Gonzalez’s remaining contentions.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.