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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARTURO ALEJANDRO VAZQUEZ- BERMUDEZ,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 09-70126

Agency No. A078-016-582

MEMORANDUM*

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

Submitted March 8, 2011**

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

Arturo Alejandro Vazquez-Bermudez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his motion to reopen removal 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. *Hamazaspyan v. Holder*, 590 F.3d 744, 747 (9th Cir. 2009). We deny the petition for review.

The agency did not abuse its discretion in denying the motion to reopen because Vazquez-Bermudez presented insufficient evidence to overcome the presumption of effective service and thereby failed to demonstrate that he did not receive his notice to appear and notice of hearing. *See* 8 U.S.C.

§ 1229a(b)(5)(C)(ii); *cf. Salta v. INS*, 314 F.3d 1076, 1079 (9th Cir. 2002)

(petitioner rebuts presumption where she has actually initiated a proceeding to obtain a benefit, has appeared at a prior hearing, and provides a sworn affidavit that neither she nor a responsible party residing at her address received the notice).

PETITION FOR REVIEW DENIED.