

APR 15 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEX RENBERTO FLORES RUBIO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-72354

Agency No. A094-292-434

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Alex Renberto Flores Rubio, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

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 IJ did not abuse her discretion in denying Flores Rubio's motion to reopen because Flores Rubio presented insufficient evidence to overcome the presumption that his hearing notice was properly delivered via regular mail. *See* 8 U.S.C. § 1229a(b)(5)(C)(ii); *see also Sembiring v. Gonzales*, 499 F.3d 981, 988 (9th Cir. 2007) (“The test for whether an alien has produced sufficient evidence to overcome the presumption of effective service by regular mail is practical and commonsensical rather than rigidly formulaic.”).

PETITION FOR REVIEW DENIED.