

APR 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARTURO LANDA-ROMERO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71884

Agency No. A096-061-878

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.

Arturo Landa-Romero, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reissue its previous decision dismissing his appeal. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen.

* 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).

Hernandez-Velasquez v. Holder, 611 F.3d 1073, 1077 (9th Cir. 2010). We grant the petition for review.

The BIA abused its discretion in denying Landa-Romero’s motion to reissue where it failed to address Landa-Romero’s evidence that he did not receive the BIA’s August 21, 2008, order dismissing his appeal. *See id.* (BIA must consider the “weight and consequences” of petitioner’s evidence of non-receipt).

PETITION FOR REVIEW GRANTED; REMANDED.