

APR 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NELSON MANUEL MENENDEZ- ACEVEDO,</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. 09-72210

Agency No. A077-395-500

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.

Nelson Manuel Menendez-Acevedo, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his motion to reopen proceedings held in absentia. We have jurisdiction under 8 U.S.C. § 1252.

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\* 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).

Reviewing for abuse of discretion, *Salta v. INS*, 314 F.3d 1076, 1078 (9th Cir. 2002), we deny the petition for review.

The agency did not abuse its discretion by denying Menendez-Acevedo's motion to reopen because notices of hearing were mailed to both of the addresses Menendez-Acevedo gave to the immigration court and Menendez-Acevedo failed to provide persuasive evidence to rebut the presumption of proper delivery of the notices. *See* 8 U.S.C. § 1229a(b)(5)(A) (written notice shall be considered sufficient for purposes of an in absentia removal order if provided at the most recent address given by alien); *Salta*, 314 F.3d at 1079.

**PETITION FOR REVIEW DENIED.**