

JUN 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

QUA VAN LE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-73745

Agency No. A027-754-294

MEMORANDUM*

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

Submitted June 15, 2011**

Before: CANBY, O’SANNLAIN, and FISHER, Circuit Judges.

Qua Van Le, a native and citizen of Vietnam, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo due process claims, and for abuse of discretion the denial of a motion to reopen. *Mohammed v.*

* 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).

Gonzales, 400 F.3d 785, 791-92 (9th Cir. 2005). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider the BIA's denial of Le's motion to reopen the discretionary denial of cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir. 2006). Le's claim that the BIA did not issue a decision that fully explains the reasons for denying his motion to reopen is foreclosed by this determination. *See id.* at 603-04.

Le's contention that the Board did not consider the evidence he submitted fails because he has not "overcome the presumption that the BIA did review the record." *Id.* at 603.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.