

JUN 29 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>ROMMEL DELA CRUZ TEOPACO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 09-73219

Agency No. A099-625-113

MEMORANDUM\*

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

Submitted June 15, 2011\*\*

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

Rommel Dela Cruz Teopaco, a native and citizen of the Philippines, petitions pro se for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his motion to reopen.

Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of

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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).

discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Teopaco's motion to reopen based on ineffective assistance of counsel because he failed to comply with the requirements set forth in *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), and the ineffective assistance he alleges is not plain on the face of the record. See *Reyes v. Ashcroft*, 358 F.3d 592, 597-99 (9th Cir. 2004).

Teopaco's claim regarding the agency's failure to address his eligibility for adjustment of status is moot because the Form I-130, Petition for Alien Relative, filed on Teopaco's behalf has been denied and the marriage is being dissolved.

We lack jurisdiction to review Teopaco's ineffective assistance of counsel claim against his most recent counsel because he failed to raise that issue before the agency. See *Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (this court lacks jurisdiction to review contentions not raised before the agency).

We deny Teopaco's request to hold his petition for review in abeyance so that a new Form I-130 may be filed on his behalf.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**