

JUL 13 2011

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DOMINGO ALBERTO HUINAC-VICENTE,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 10-70265

Agency No. A070-201-354

MEMORANDUM\*

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

Submitted July 12, 2011\*\*

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Domingo Alberto Huinac-Vicente, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s decision denying his motion to reopen deportation proceedings conducted in absentia. Our jurisdiction is

---

\* 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).

governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Hamazaspian v. Holder*, 590 F.3d 744, 747 (9th Cir. 2009).

We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Huinac-Vicente's motion to reopen where the record demonstrates that he was personally served with an Order to Show Cause and Notice of Hearing, written in both English and Spanish. *See* 8 U.S.C. 1252b(a)(3) (1996); *Khan v. Ashcroft*, 374 F.3d 825, 828-29 (9th Cir. 2004) (notice proper where INS adhered to statutorily imposed procedural requirements). In addition, Huinac-Vicente failed to submit any evidence to support a claim that he is eligible for relief from removal. *See* 8 C.F.R. § 1003.23(b)(3).

We lack jurisdiction to consider Huinac-Vicente's remaining contentions because he failed to exhaust them before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

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