

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 21 2011

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

FERNANDO LOPEZ-VAZQUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71228

Agency No. A075-675-062

MEMORANDUM*

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

Submitted July 12, 2011**

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

Fernando Lopez-Vazquez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reopen, *Mendez-*

* 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).

Gutierrez v. Ashcroft, 340 F.3d 865, 869 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Lopez-Vazquez's motion to reopen on the ground that he failed to demonstrate prima facie eligibility for the relief sought. *See Mendez-Gutierrez*, 340 F.3d at 869-70 (“[P]rima facie eligibility for the relief sought is a prerequisite for the granting of a motion to reopen.”).

To the extent Lopez-Vazquez contends that the BIA failed to consider some or all of the evidence he submitted with the motion to reopen, he has not overcome the presumption that the BIA did review the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.