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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>OLUSOJI ODUMAKINDE,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-70179

Agency No. A077-183-904

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Olusoji Odumakinde, a native and citizen of Nigeria, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for an abuse of discretion the denial of a motion to reopen, *Iturribarria 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).

INS, 321 F.3d 889, 894 (9th Cir. 2003), and we grant the petition for review and remand.

In his motion to reopen, Odumakinde provided evidence that there has been an escalation of violence since the time of the merits hearing against his family members and fellow churchgoers in Nigeria because of their Christian religion, including that Muslim extremists doused Odumakinde's brother with gasoline in an attempt to light him on fire, and cut his head with a machete. We conclude the BIA abused its discretion in denying Odumakinde's motion to reopen where he provided sufficient evidence of changed circumstances in Nigeria such that he now has a "reasonable likelihood" of demonstrating a well-founded fear of persecution. *See Maly v. Ashcroft*, 381 F.3d 942, 945-48 (9th Cir. 2004). Accordingly, we grant the petition and remand to the BIA with instructions to reopen. *See id.* at 948.

PETITION FOR REVIEW GRANTED; REMANDED.