

APR 19 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANIEL MAINGI KINGOO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-71203

Agency No. A097-102-876

MEMORANDUM*

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

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Daniel Maingi Kingoo, a native and citizen of Kenya, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) order denying his motion to reopen proceedings based on ineffective assistance of counsel. We have jurisdiction under

* 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).

8 U.S.C. § 1252. We review for abuse of discretion the BIA’s decision, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005), and we deny the petition for review.

The agency did not abuse its discretion in denying Kingoo’s motion to reopen because Kingoo did not comply with the threshold requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), at the time he filed his motion with the IJ, and the alleged ineffective assistance was not “plain on the face of the administrative record.” *Castillo-Perez v. INS*, 212 F.3d 518, 525 (9th Cir. 2000).

In light of our disposition, we need not reach Kingoo’s remaining contentions.

PETITION FOR REVIEW DENIED.