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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GUANGFU LIU,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-71088

Agency No. A096-339-712

MEMORANDUM*

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

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Guangfu Liu, a native and citizen of China, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to remand and dismissing his appeal from an immigration judge's order denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8

* 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).

U.S.C. § 1252. We review for abuse of discretion the denial of a motion to remand or reopen, *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005), and review de novo due process claims, *see Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Liu’s motion to remand based on ineffective assistance of counsel. Because Liu did not demonstrate insufficient notice of his hearing, he did not establish that former counsel’s actions “may have affected the outcome” of his proceedings. *See* 8 C.F.R. § 1003.23(b)(4)(ii); *Mohammed*, 400 F.3d at 793-94 (to prevail on an ineffective assistance claim, a petitioner must demonstrate that “the performance of counsel was so inadequate that it *may* have affected the outcome of the proceedings”) (internal citation omitted)).

In addition, the agency did not abuse its discretion in denying Liu’s second motion to reopen as number-barred. *See* 8 C.F.R. § 1003.2(c)(2).

In light of our disposition, we need not reach Liu’s remaining due process contentions.

PETITION FOR REVIEW DENIED.