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U.S. COURT OF APPEALS

1NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RICARDO FRAUSTO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 10-73564

Agency No. A097-258-285

MEMORANDUM*

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

Submitted August 8, 2012**

Before: ALARCÓN, BERZON, and IKUTA, Circuit Judges.

Ricardo Frausto, 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

* 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).

abuse of discretion the denial of a motion to reopen. *Garcia v. Holder*, 621 F.3d 906, 912 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion in denying Frausto's motion to reopen, where Frausto did not demonstrate that his son's birth certificate was unavailable at the time of his hearing, *see* 8 C.F.R. § 1003.2(c)(1), and the evidence he submitted regarding his father was insufficient to establish prima facie eligibility for relief, *see Garcia*, 621 F.3d at 912-13.

PETITION FOR REVIEW DENIED.