

AUG 16 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARMANDO BARRAGAN-GARFIAS,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-73869

Agency No. A088-197-178

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.

Armando Barragan-Garfias, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo due process claims.

* 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).

Iturribarria v. INS, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Barragan-Garfias' motion to reopen on the ground that he did not demonstrate prejudice from the alleged ineffective assistance of his former counsel. *Iturribarria*, 321 F.3d at 899-90. Barragan-Garfias failed to establish prima facie eligibility for asylum, withholding of removal, or protection under the Convention Against Torture. *See Ordonez v. INS*, 345 F.3d 777, 785 (9th Cir. 2003) (a motion to reopen will not be granted unless the respondent establishes a case of prima facie eligibility for the underlying relief sought.)

PETITION FOR REVIEW DENIED.

Judge Berzon:

I would instruct, prior to issuing a decision on the merits, that the parties confer with the Ninth Circuit Mediation Office regarding whether they wish to engage in mediation.