

SEP 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUIS MACHUCA,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 10-73845

Agency No. A089-589-762

MEMORANDUM\*

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

Submitted September 10, 2012\*\*

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Luis Machuca, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s decision denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review the denial of a

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\* 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).

motion to reopen for abuse of discretion, *Hamazaspyan v. Holder*, 590 F.3d 744, 747 (9th Cir. 2009), and we deny the petition for review.

The agency did not abuse its discretion in denying Machuca's motion to reopen on the ground that his mistake concerning his hearing date did not constitute exceptional circumstances beyond his control that would excuse his failure to appear. *See* 8 U.S.C. § 1229a(e)(1); *Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205-06 (9th Cir. 2003) (per curiam) (finding no exceptional circumstances where petitioner misunderstood the time of her hearing).

**PETITION FOR REVIEW DENIED.**