

SEP 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ILLIA SUHAKA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-70607

Agency No. A089-677-450

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.

Illia Suhaka, a native of the former Soviet Union and a citizen of Belarus, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's denial of his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen, *Chete Juarez v. Ashcroft*, 376 F.3d 944, 947 (9th Cir. 2004), and we deny the petition for review.

The agency did not abuse its discretion in denying Suhaka's motion to reopen on the ground that his failure to maintain regular contact with his attorney did not constitute exceptional circumstances beyond his control that would excuse his failure to appear. *See* 8 U.S.C. § 1229a(e)(1); *Vukmirovic v. Holder*, 640 F.3d 977, 978-79 (9th Cir. 2011) (petitioner's failure to know about removal hearing because he had moved without advising his lawyer or immigration court of his whereabouts did not constitute exceptional circumstances).

Suhaka's remaining contention is unavailing.

PETITION FOR REVIEW DENIED.