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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUCIO PLEITEZ-RIVERA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-72957

Agency No. A077-793-850

MEMORANDUM*

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

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Lucio Pleitez-Rivera, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s order denying his motion to reopen removal proceedings conducted in absentia. 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. *Sembiring v. Gonzales*, 499 F.3d 981, 985 (9th Cir. 2007). We deny the petition for review.

The agency did not abuse its discretion in denying Pleitez-Rivera's motion to reopen to rescind his removal order because the hearing notice was sent by regular mail to the address last provided by Pleitez-Rivera, and he failed to rebut the presumption of effective service. *See id.* at 988-90 (describing factors relevant to overcome presumption of effective service sent by regular mail).

PETITION FOR REVIEW DENIED.