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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARTURO RODRIGUEZ-MARQUINA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-70916

Agency No. A095-771-962

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.

Arturo Rodriguez-Marquina, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing his appeal from an immigration judge’s 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

* 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).

reopen, and review de novo claims of due process violations. *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002). We deny the petition for review.

The agency did not abuse its discretion in denying the motion to reopen where Rodriguez-Marquina failed to show prima facie eligibility for cancellation of removal. *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). Rodriguez-Marquina's due process claim therefore fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring a showing of error and substantial prejudice to prevail on a due process claim).

PETITION FOR REVIEW DENIED.