

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 29 2012

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

RENE DIMAS SALAZAR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-73265

Agency No. A088-735-521

MEMORANDUM*

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

Submitted October 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Rene Dimas Salazar, 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

* 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).

for abuse of discretion the denial of a motion to reopen, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008), and we deny the petition for review.

The agency was within its discretion in denying Salazar's motion to reopen on the grounds that he failed to appear at his hearing and did not establish that "exceptional circumstances" had caused his absence. *See* 8 U.S.C. § 1229a(e)(1); *Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205-06 (9th Cir. 2003); *cf. Perez*, 516 F.3d at 773-75 (no failure to appear where IJ had not yet left the courtroom after the scheduled hearing).

PETITION FOR REVIEW DENIED.