

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 01 2013

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

ORDER

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

Salazar's petition for panel rehearing is granted.

The memorandum disposition filed on October 29, 2012, is withdrawn. A replacement memorandum disposition is being filed concurrently with this order.

Salazar's petition for rehearing en banc is denied as moot.

Any petition for rehearing of the replacement memorandum disposition must be filed within 45 days of the filing date of this order.

NOT FOR PUBLICATION

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MEMORANDUM*

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

Submitted October 29, 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). Upon review of all of the circumstances in this case, we conclude that Salazar did not fail to appear for his August 2009 hearing. *See id.* at 774. We therefore grant the petition for review and remand for further proceedings.

PETITION FOR REVIEW GRANTED; REMANDED.