

MAR 25 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NEFTALI GUZMAN-GARCIA, a.k.a.
Nefali Garcia-Ruballo, a.k.a. Nefali
Garcia-Rubello, a.k.a. Nefali Guzman
Garcia, a.k.a. Neftali Guzman Garcia,
a.k.a. Nefali Guzman-Garcia, a.k.a. Raul
Ortiz-Sanchez,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-70149

Agency No. A095-790-793

MEMORANDUM*

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

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

* 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).

Neftali Guzman-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen proceedings due to ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo due process claims. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Guzman-Garcia's motion to reopen because he failed to show that he was prejudiced by the alleged ineffective assistance of his former counsel. *See id.* at 793-94 (prejudice results when "the performance of counsel was so inadequate that it *may* have affected the outcome of the proceedings").

PETITION FOR REVIEW DENIED.