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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID MUNGAI NJENGA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-74044

Agency No. A091-738-632

MEMORANDUM*

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

Submitted June 10, 2013**

Before: HAWKINS, McKEOWN, and BERZON, Circuit Judges.

David Mungai Njenga, a native and citizen of Kenya, petitions for review of the Board of Immigration Appeals’ (“BIA”) 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. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion in denying Njenga’s untimely motion to reopen because he failed to establish material evidence of changed circumstances in Kenya. *See* 8 C.F.R. § 1003.23(b)(4)(i); *Najmabadi*, 597 F.3d at 990 (a petitioner’s evidence lacks the required materiality where it simply recounts generalized conditions that fail to demonstrate “that her predicament is appreciably different from the dangers faced by her fellow citizens”).

PETITION FOR REVIEW DENIED.