

SEP 26 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL ANGEL OCHOA-FUENTES,
a.k.a. Miguel Bracamonte, a.k.a. Amando
Fuentes,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-70851

Agency No. A088-769-298

MEMORANDUM*

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

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Miguel Angel Ochoa-Fuentes, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reopen, *Bhasin v. Gonzales*, 423 F.3d 977, 983 (9th Cir. 2005), and we deny the petition for review.

The BIA did not abuse its discretion in denying Ochoa-Fuentes' motion to reopen to seek withholding of removal where he failed to demonstrate the evidence he submitted was material and previously unavailable. *See* 8 C.F.R. § 1003.2(c)(1) (setting forth requirements for a motion to reopen); *Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010) (holding that evidence presented with motion to reopen was not material because it merely recounted generalized conditions that failed to demonstrate that petitioner's situation was appreciably different from the dangers faced by her fellow citizens).

The BIA also did not abuse its discretion in denying Ochoa-Fuentes' motion to reopen to seek relief under the Convention Against Torture on the ground that generalized evidence of violence in Mexico was insufficient to establish a likelihood of torture. *See Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1152 (9th Cir. 2010).

Petitioner's request for a stay of removal is dismissed as moot.

PETITION FOR REVIEW DENIED.