NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL CARRILLO,	No. 12-73681
Petitioner,	Agency No. A041-111-699
v.	
ERIC H. HOLDER, Jr., Attorney General,	MEMORANDUM*
Respondent.	

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

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Manuel Carrillo, a native and citizen of Mexico, 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. Our jurisdiction is governed by 8 U.S.C. § 1252. We

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        *   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. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

In his opening brief, Carrillo fails to raise, and therefore has waived, any challenge to the BIA's determination that notice of his October 3, 2005, hearing was proper. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

The BIA did not abuse its discretion by denying Carrillo's motion to reopen as untimely where Carrillo filed his motion more than five years after his in absentia removal order was issued. *See* 8 U.S.C. § 1229a(b)(5)(C)(i) (an alien has 180 days to file a motion to reopen to rescind the in absentia order if the alien can show that he failed to appear for the hearing due to exceptional circumstances).

We lack jurisdiction to consider Carrillo's contention regarding equitable tolling of the motion to reopen filing deadline because he failed to exhaust this contention before the BIA. *See Tijani*, 628 F.3d at 1080.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.