

APR 15 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO JAVIER BARRERA
MORENO, AKA Francisco Moreno,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-73770

Agency No. A094-316-634

MEMORANDUM*

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

Submitted April 7, 2015**

Before: FISHER, TALLMAN, and NGUYEN, Circuit Judges.

Francisco Javier Barrera Moreno, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

* 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).

discretion the denial of a motion to reopen, and review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The agency did not abuse its discretion in denying Barrera Moreno's motion to reopen for failure to establish prejudice, where Barrera Moreno testified at his removal hearing that he had no fear of returning to El Salvador, *see id.* at 793 (to prevail on an a motion to reopen based on ineffective assistance of counsel, an alien must demonstrate that he was prejudiced by counsel's performance), and failed to establish prejudice from any failure to advise him of his right to appeal the withdrawal of his Temporary Protected Status, *see Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (to prevail on a due process challenge, an alien must show error and prejudice).

In light of this disposition, we do not reach Barrera Moreno's remaining contentions.

PETITION FOR REVIEW DENIED.