

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 28 2015

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

VICTOR ARMENTA-RODRIGUEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-71434

Agency No. A092-282-272

MEMORANDUM\*

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

Submitted April 22, 2015\*\*

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Victor Armenta-Rodriguez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

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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).

discretion the denial of a motion to reopen, *Oyeniran v. Holder*, 672 F.3d 800, 806 (9th Cir. 2012), and we deny the petition for review.

The BIA did not abuse its discretion in denying Armenta-Rodriguez's motion to reopen because Armenta-Rodriguez did not demonstrate that the evidence he submitted with the motion was not available and could not have been discovered or presented at his immigration hearing. *See* 8 C.F.R. § 1003.2(c)(1) (a motion to reopen shall not be granted unless the "evidence sought to be offered is material and was not available and could not have been discovered or presented at the former hearing[.]"); *Goel v. Gonzales*, 490 F.3d 735, 738 (9th Cir. 2007) (*per curiam*) (evidence capable of being discovered at time of hearing cannot serve as basis for motion to reopen).

In light of this disposition, we need not reach Armenta-Rodriguez's remaining contentions.

**PETITION FOR REVIEW DENIED.**