

MAY 19 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE GUADALUPE VIVANCO-RODRIGUEZ, AKA Guadalupe Vivanco-Rodriguez, AKA Jose G. Vivano-Rodriguez,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 12-71254

Agency No. A070-826-910

MEMORANDUM\*

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

Submitted May 13, 2015\*\*

Before: LEAVY, CALLAHAN, and M. SMITH, Circuit Judges.

Jose Guadalupe Vivanco-Rodriguez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his motion to reopen

---

\* 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).

deportation proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Arrieta v. INS*, 117 F.3d 429, 430 (9th Cir. 1997) (per curiam). We deny the petition for review.

The agency did not abuse its discretion in denying Vivanco-Rodriguez's motion to reopen on the grounds that notice was proper and that Vivanco-Rodriguez failed to rebut the strong presumption of effective service arising from the service of his hearing notice by certified mail. *See Matter of Grijalva*, 21 I. & N. Dec. 27, 37 (BIA 1995) (“[W]here service of a notice of deportation proceeding is sent by certified mail through the United States Postal Service and there is proof of attempted delivery and notification of certified mail, a strong presumption of effective service arises.”); *Mejia-Hernandez v. Holder*, 633 F.3d 818, 822-23 (9th Cir. 2011) (finding that a sworn affidavit claiming lack of notice was not sufficient to overcome the strong presumption of effective service where notice of hearing was sent via certified mail to alien's last known address).

Vivanco-Rodriguez's remaining contentions are unavailing.

**PETITION FOR REVIEW DENIED.**