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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BINIAM NEGASH GEBEREHIWOT,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70450

Agency No. A087-993-427

MEMORANDUM*

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

Submitted March 15, 2016**

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

Biniam Negash Geberehiwot, a native of Ethiopia and a citizen of Eritrea, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

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

Under the particular circumstances of this case, the agency abused its discretion in denying Geberehiwot's motion to reopen. Although the corroborative evidence Geberehiwot submitted with his motion predated his former hearing, the record indicates that the IJ did not give Geberehiwot notice and an opportunity to provide such evidence to corroborate his credible testimony. *See Ren v. Holder*, 648 F.3d 1079, 1090 (9th Cir. 2011) (“[A]n IJ must provide an applicant with notice and an opportunity to either produce the evidence or explain why it is unavailable before ruling that the applicant has failed in his obligation to provide corroborative evidence and therefore failed to meet his burden of proof.”).

Thus, we grant the petition for review and remand for further proceedings consistent with this disposition.

PETITION FOR REVIEW GRANTED; REMANDED.