

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 2 2016

FOR THE NINTH CIRCUIT

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

HECTOR NEPTALY MILLA-PEREZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-71020

Agency No. A098-044-613

MEMORANDUM*

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

Submitted May 24, 2016**

Before: REINHARDT, W. FLETCHER, and OWENS, Circuit Judges.

Hector Neptaly Milla-Perez, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reopen. *Bhasin v.*

* 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).*

Gonzales, 423 F.3d 977, 983 (9th Cir. 2005). We grant the petition for review and we remand.

The BIA abused its discretion in denying Milla-Perez’s motion to reopen because it discredited the testimony in his supporting declaration. *See id.* at 986-87 (“We have long held that credibility determinations on motions to reopen are inappropriate. Indeed, facts presented in affidavits supporting a motion to reopen must be accepted as true unless inherently unbelievable.”) (citation omitted).

Thus, the BIA abused its discretion in denying Milla-Perez’s motion to reopen.

See id. at 989. We grant the petition for review and remand for further proceedings consistent with this disposition. *See INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

PETITION FOR REVIEW GRANTED; REMANDED.