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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ALBERTO GUTIERREZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-73162

Agency No. A090-519-511

MEMORANDUM*

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

Submitted June 14, 2016**

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Jose Alberto Gutierrez, a native and citizen of Mexico, 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 de novo questions of law, and for abuse of discretion the denial of a 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).

Najmabadi v. Holder, 597 F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion in denying Gutierrez’s motion to reopen, where the BIA determined that Gutierrez was not entitled to the requested relief as a matter of discretion. *See id.* at 986 (the BIA may deny a motion to reopen upon a determination that the alien would not be entitled to the discretionary grant of relief sought).

Contrary to Gutierrez’s contention, the BIA applied the correct legal standard in making its discretionary determination. *See* 8 C.F.R. § 1003.2; *see also* 8 U.S.C. § 1182(h) (relief may be granted in the Attorney General’s discretion).

Gutierrez’s contentions that the BIA relied on inapplicable precedent, did not consider relevant factors, and failed to address an argument regarding the distinction between waivers under 8 U.S.C. § 1182(h)(1)(A) and 8 U.S.C. § 1182(h)(1)(B) lack merit.

In light of our disposition, we need not reach Gutierrez’s remaining contentions regarding whether he showed eligibility for relief.

PETITION FOR REVIEW DENIED.