

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 13 2018

FOR THE NINTH CIRCUIT

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

MOHAMED ELEBEN FERCHICHI,

No. 16-73968

Petitioner,

Agency No. A096-639-503

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted April 11, 2018**

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

Mohamed Eleben Ferchichi, a native and citizen of Tunisia, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1252. We review for abuse of discretion the denial of a motion to reopen, *Arredondo v. Lynch*, 824 F.3d 801, 805 (9th Cir. 2016), and we deny the petition for review.

The agency did not abuse its discretion in denying Ferchichi's motion to reopen proceedings conducted in absentia where Ferchichi conceded that he received notice of the proceedings, and where he failed to demonstrate extraordinary circumstances to excuse his absence from the proceeding. *See* 8 U.S.C. § 1229a(b)(5)(C); *Arredondo*, 824 F.3d at 805-06 (setting forth the standards governing a motion to reopen and explaining exceptional circumstances); *see also Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205-06 (9th Cir. 2003) (petitioner's misunderstanding of the time of the removal hearing did not constitute an exceptional circumstance in the context of an in absentia removal order).

Because this determination is dispositive, we need not reach Ferchichi's remaining contentions. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

PETITION FOR REVIEW DENIED.