FILED

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM LEOPOLDO JUAREZ-HERNANDEZ,	No. 14-71226
Petitioner,	Agency No. A070-184-483
v.	MEMORANDUM[*]
LORETTA E. LYNCH, Attorney General,	
Respondent.	

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

Submitted March 15, 2016[**]

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

William Leopoldo Juarez-Hernandez, a native and citizen of Guatemala,

petitions for review of the Board of Immigration Appeals' ("BIA") order denying

his motion to reopen removal proceedings based on ineffective assistance of

counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

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    [*]   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).

discretion the denial of a motion to reopen, and review de novo questions of law and claims of ineffective assistance. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Juarez-Hernandez's motion to reopen for failure to establish prejudice where he has not shown how different conduct by his prior attorney may have affected the outcome of proceedings. *See id.* at 793 (to prevail on an ineffective assistance of counsel claim, a petitioner must demonstrate that he was prejudiced by counsel's performance). The BIA did not err in failing to presume prejudice from prior counsel's alleged failure to file a brief with the BIA, because Juarez-Hernandez was not deprived entirely of appellate proceedings. *See Martinez-Hernandez v. Holder*, 778 F.3d 1086, 1088 n.3 (9th Cir. 2015) ("Petitioner was not deprived of an appellate proceeding. Rather, Petitioner's new attorney timely filed a notice of appeal, and the BIA decided the appeal.").

PETITION FOR REVIEW DENIED.