

AUG 31 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FELICITO AVENDANO GERONIMO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 05-76877

Agency No. A072-881-473

MEMORANDUM*

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

Submitted August 10, 2010**

Before: LEAVY, HAWKINS, and IKUTA, Circuit Judges.

Felicito Avendano Geronimo, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review de novo due process claims,

* 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).

Vasquez-Zavala v. Ashcroft, 324 F.3d 1105, 1107 (9th Cir. 2003), and for abuse of discretion the denial of a motion to reopen, *Maravilla Maravilla v. Ashcroft*, 381 F.3d 855, 857 (9th Cir. 2004) (per curiam). We deny the petition for review.

The BIA properly concluded that Geronimo failed to establish he was prejudiced by his former counsel's performance. *See Castillo-Perez v. INS*, 212 F.3d 518, 527 n.12 (9th Cir. 2000) (a showing of prejudice can be made if counsel's performance "was so inadequate that it may have affected the outcome of the proceedings"). Therefore, the BIA did not abuse its discretion in denying Geronimo's motion to reopen. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (The BIA's denial of a motion to reopen shall be reversed if it is "arbitrary, irrational, or contrary to law.").

PETITION FOR REVIEW DENIED.