

MAR 25 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VICTOR MANUEL ROSALES,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-72563

Agency No. A076-675-491

MEMORANDUM*

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

Argued and Submitted March 18, 2011
San Francisco, California

Before: WALLACE, NOONAN, and CLIFTON, Circuit Judges.

Victor Rosales (“Rosales”) petitions for review of a decision of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

We review ineffective assistance of counsel claims de novo and findings of fact regarding counsel's performance for substantial evidence. *Lin v. Ashcroft*, 377 F.3d 1014, 1024 (9th Cir. 2004). Ineffective assistance of counsel claims require a showing of prejudice to succeed. *Id.* Upon review of the record, we conclude that the BIA did not err in determining that Rosales did not demonstrate prejudice arising out of his prior counsel's failure to properly investigate and present additional testimony and documentary evidence. Evidence that it was difficult for Rosales to maintain his anonymity in one Guatemalan town, Salama, does not undermine the agency's previous conclusion that Rosales could reasonably relocate within Guatemala.

The petition for review is **DENIED**.