

APR 15 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROEHL HENSON BERNARDINO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-72105

Agency No. A072-442-940

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Roehl Henson Bernardino, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) denial of his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

abuse of discretion the denial of a motion to reopen, and review de novo constitutional claims, including ineffective assistance of counsel claims.

Mohammed v. Gonzales, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The IJ did not abuse her discretion in denying Bernardino’s motion to reopen on the ground that he failed to show he was prejudiced by his former counsel’s conduct. *See Iturribarria v. INS*, 321 F.3d 889, 899-90 (9th Cir. 2003) (prejudice results when the performance of counsel “was so inadequate that it may have affected the outcome of the proceedings”) (internal quotation marks omitted).

PETITION FOR REVIEW DENIED.