

MAY 27 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JONATAN CARDENAS-NAVA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-70348

Agency No. A095-447-113

MEMORANDUM*

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

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Jonatan Cardenas-Nava, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo questions of law. *Ordonez v.*

* 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).

INS, 345 F.3d 777, 782 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Cardenas-Nava's motion to reopen on the ground that the evidence he submitted was insufficient to establish prima facie eligibility for cancellation of removal where he did not articulate any hardship to his new qualifying relative. *See* 8 U.S.C. § 1229b(b)(1)(D) (applicant must establish that removal would result in exceptional and extremely unusual hardship to a qualifying relative); *see also Partap v. Holder*, 603 F.3d 1173, 1175 (9th Cir. 2010) (per curiam) (no abuse of discretion in denying motion to remand to apply for cancellation after the birth of a U.S. citizen child where petitioner "did not tender any evidence showing exceptional and extremely unusual hardship") (internal quotation marks omitted).

Cardenas-Nava's contention that he is not required to submit evidence of hardship to demonstrate prima facie eligibility for relief in a motion to reopen before the BIA lacks merit. *See* 8 U.S.C. § 1229b(b)(1)(D); *Ordonez*, 345 F.3d at 785 (a motion to reopen will not be granted unless the applicant establishes a case of prima facie eligibility for the underlying relief sought.)

PETITION FOR REVIEW DENIED.