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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JULIO CESAR ARAUJO-QUINONEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71225

Agency No. A072-397-747

MEMORANDUM*

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

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Julio Cesar Araujo-Quinonez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his second motion to reopen deportation proceedings conducted in absentia. We have jurisdiction under

* 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).

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. *Garcia v. INS*, 222 F.3d 1208, 1209 (9th Cir. 2000) (per curiam). We deny the petition for review.

The agency did not abuse its discretion in denying Araujo-Quinonez's motion to reopen due to lack of notice where the record reflects that Araujo-Quinonez's counsel of record was served with the hearing notice. *See id.* (notice to attorney of record constitutes notice to alien).

The agency denied Araujo-Quinonez's motion to reopen due to "exceptional circumstances" as untimely. He failed to raise, and therefore waived, any challenge to the agency's denial of his motion to reopen on this basis. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (a petitioner waives an issue by failing to raise it in the opening brief).

Araujo-Quinonez's contention regarding oral warnings fails because former INA § 242(B)(e)(1), 8 U.S.C. § 1252b(e)(1) (1996), pertains to eligibility for relief, not reopening.

PETITION FOR REVIEW DENIED.