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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROHVICJ LOPEZ Y LOPEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 12-70483

Agency No. A070-945-380

MEMORANDUM*

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

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Rohvicj Lopez Y Lopez, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying his motion to reopen deportation proceedings conducted in absentia. 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.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

We review for abuse of discretion the denial of a motion to reopen, and review de novo questions of law. *Cerezo v. Mukasey*, 512 F.3d 1163, 1166 (9th Cir. 2008).

We deny the petition for review.

The agency did not abuse its discretion in denying Lopez Y Lopez's motion to reopen where one of his counsel of record was properly served with written notice by certified mail of the next scheduled hearing at which Lopez Y Lopez did not appear. *See* 8 U.S.C. § 1252b(a)(2)(A) (repealed 1996) (written notice shall be given by certified mail to the alien or to the alien's counsel of record); *Garcia v. INS*, 222 F.3d 1208, 1209 (9th Cir. 2000) (per curiam) (notice to attorney of record constitutes notice to alien). Lopez Y Lopez's due process claim therefore fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on a due process challenge).

PETITION FOR REVIEW DENIED.