

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

HAILIAN XU,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-73792

Agency No. A099-440-171

MEMORANDUM\*

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

Submitted February 19, 2019\*\*

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

Hailian Xu, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying his motion to reopen removal proceedings conducted in absentia.

We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and we review de novo questions of law. *Mohammed*

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

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

The agency did not abuse its discretion in denying Xu's motion to reopen, where he failed to present sufficient evidence to show that he failed to appear at his hearing due to exceptional circumstances beyond his control. *See* 8 U.S.C. § 1229a(e)(1); 8 C.F.R. § 1003.23(b)(4)(ii); *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 892 (9th Cir. 2002).

We reject Xu's contention that the agency failed to consider relevant evidence. *See Najmabadi v. Holder*, 597 F.3d 983, 990-91 (9th Cir. 2010) (holding the BIA adequately considered evidence and sufficiently announced its decision); *Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006) (petitioner did not overcome the presumption that the BIA did review the record).

In light of our disposition, we do not reach Xu's remaining contentions regarding equitable tolling or due diligence. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

**PETITION FOR REVIEW DENIED.**