

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2018

FOR THE NINTH CIRCUIT

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

JORGE OLIVAS-BARRAZA,

Petitioner,

v.

MATTHEW G. WHITAKER, Acting
Attorney General,

Respondent.

No. 17-71082

Agency No. A092-187-729

MEMORANDUM*

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

Submitted December 17, 2018**

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Jorge Olivas-Barraza, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' decision 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. We review for

* 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).

abuse of discretion the denial of a motion to reopen. *Martinez-Hernandez v. Holder*, 778 F.3d 1086, 1088 (9th Cir. 2015). We deny the petition for review.

The agency did not abuse its discretion in denying Olivas-Barraza's motion to reopen based on lack of notice, where he did not sufficiently establish that his mailing address remained unchanged. *See* 8 U.S.C. § 1252b(a) (1993) (no notice required if an alien fails to provide an address at which he can be contacted); *Arrieta v. INS*, 117 F.3d 429, 430 (9th Cir. 1997) (under 8 U.S.C. § 1252b (1994), proper service of a hearing notice is presumed when it is sent via certified mail to the alien's last known address).

The agency did not abuse its discretion in denying Olivas-Barraza's motion to reopen as untimely with respect to his deportability challenges, where his motion did not qualify for any exception to the filing deadline. *See* 8 U.S.C. § 1252b(c)(3) (1993); *Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010) (holding the BIA adequately considered evidence and sufficiently announced its decision).

As timeliness is dispositive, we do not reach the merits of Olivas-Barraza's deportability challenges. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (the courts and the agency are not required to make findings on issues the decision of which is unnecessary to the results).

PETITION FOR REVIEW DENIED.