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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALBINO SILVEIRA LEAL,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-73745

Agency No. A017-845-263

MEMORANDUM\*

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

Submitted January 13, 2009\*\*

Before: O’SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Albino Silveira Leal, a native and citizen of Portugal, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s order denying his motion to reopen removal proceedings conducted *in absentia*. Our jurisdiction is governed by 8 U.S.C. § 1252. We

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

review for abuse of discretion the denial of a motion to reopen, *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002), and we deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Leal's motion to reopen because the doctor's note he provided was insufficient to establish "exceptional circumstances." *See id.* at 892.

Leal's contention that the agency erred by failing explicitly to address the government's "non-opposition" to his motion to reopen in its decision is not persuasive.

We lack jurisdiction to review the BIA's August 30, 2006 order denying Leal's motion to reconsider because he failed to petition the court for timely review of that decision. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**