

AUG 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FUAD NASER KHOURY,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-73549

Agency No. A035-741-688

MEMORANDUM*

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

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Fuad Naser Khoury, a citizen of Jordan, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his motion to reopen removal proceedings conducted in

* 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).

absentia. We have jurisdiction under 8 U.S.C § 1252. We review for abuse of discretion the denial of a motion to reopen proceedings. *See Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002). We deny the petition for review.

The agency did not abuse its discretion in denying Khoury’s motion to reopen because he failed to demonstrate that exceptional circumstances excused his failure to appear. *See Valencia v. INS*, 321 F.3d 1204, 1204-06 (9th Cir. 2003) (an alien’s mistaken belief regarding the time of her hearing did not constitute exceptional circumstances); *see also* 8 U.S.C. § 1229a(e)(1) (defining exceptional circumstances as “circumstances beyond the control of the alien”).

Khoury’s remaining contention is not persuasive.

PETITION FOR REVIEW DENIED.