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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIO SANTOS-BAHENA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 07-70451

Agency No. A076-372-596

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN and N. R. SMITH, Circuit Judges.

Petitioner Mario Santos-Bahena, native and citizen of Mexico, petitions for review of a Board of Immigration Appeals order denying his second motion to reopen to apply for adjustment of status as numerically barred. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008). We deny in part and dismiss in part the petition for review.

To the extent Santos-Bahena challenges the Board's refusal to reopen proceedings sua sponte, we dismiss the petition for lack of jurisdiction. *Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

Santos-Bahena does not challenge the Board's determination that his second motion to reopen exceeded the number limit. *See* 8 U.S.C. § 1229a(c)(7)(A); 8 C.F.R. § 1003.2(c)(2). Because the motion is number-barred, we deny the petition for review, and we need not address Santos-Bahena's remaining challenges.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.