

OCT 26 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UBALDO VILLALOBOS-PASTOR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-72521

Agency No. A078-440-373

MEMORANDUM\*

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

Submitted October 19, 2010\*\*

Before: O’Scannlain, Tallman, and Bea, Circuit Judges.

Ubaldo Villalobos-Pastor, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his second motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and de novo questions of law,

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

*Banuelos-Ayon v. Holder*, 611 F.3d 1080, 1082 (9th Cir. 2010), and we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying the motion to reopen on grounds that Villalobos-Pastor is statutorily ineligible for cancellation of removal based on his conviction for a crime of domestic violence. *See* 8 U.S.C. § 1227(a)(2)(E)(i); *see also Banuelos-Ayon*, 611 F.3d at 1083 (a conviction under California Penal Code § 273.5(a) is categorically a crime of violence under 18 U.S.C. § 16(a)). Villalobos-Pastor's contention that he is eligible for cancellation because his conviction is not a crime involving moral turpitude is unavailing.

We lack jurisdiction to consider whether the BIA should have invoked its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir.2002).

To the extent, Villalobos-Pastor challenges the BIA's February 6, 2006, and October 24, 2006 orders, we lack jurisdiction because this petition is not timely as to those orders. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

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