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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ORACIO SANCHEZ-REYNA, a.k.a.  
Horacio Sanchez-Reyna,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

Nos. 08-71230  
08-74241

Agency No. A098-263-554

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted October 19, 2010\*\*

Before: O’SANNLAIN, TALLMAN, and BEA, Circuit Judges.

In these consolidated petitions, Oracio Sanchez-Reyna, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) orders denying his motions to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to

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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).

reopen. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). In No. 08-71230, we deny the petition for review. In No. 08-74241, we deny in part and remand in part the petition for review.

The BIA did not abuse its discretion by denying Sanchez-Reyna's motions to reopen because the BIA considered the evidence he submitted and acted within its broad discretion in determining that the evidence was either not material, not new, or insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002) (BIA's denial of a motion to reopen shall be reversed if it is "arbitrary, irrational, or contrary to law").

In its September 4, 2008, order, the BIA abused its discretion by concluding that Sanchez-Reyna overstayed his voluntary departure period. As both parties agree, Sanchez-Reyna obtained a temporary stay of voluntary departure when he timely petitioned for review of the BIA's prior February 21, 2008, order, and moved to stay his voluntary departure prior to its expiration. We therefore remand No. 08-74241 to the BIA for the limited purpose of reinstating Sanchez-Reyna's remaining voluntary departure period.

**In No. 08-71230: PETITION FOR REVIEW DENIED.**

**In No. 08-74241: PETITION FOR REVIEW DENIED in part;  
REMANDED in part.**