

APR 25 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLEKSANDR KRAVCHUK,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-74399

Agency No. A078-759-546

MEMORANDUM*

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

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Oleksandr Kravchuk, a native and citizen of Ukraine, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

abuse of discretion the denial of a motion to reopen, *Lin v. Holder*, 588 F.3d 981, 984 (9th Cir. 2009), and we deny the petition for review.

The BIA did not abuse its discretion in denying Kravchuk's motion to reopen as untimely because the motion was filed four years after the BIA's final decision, *see* 8 C.F.R. § 1003.2(c), and Kravchuk did not establish prima facie eligibility for relief, *see Toufighi v. Mukasey*, 538 F.3d 988, 996-97 (9th Cir. 2008) (evidence must demonstrate prima facie eligibility for relief warranting reopening based on changed country conditions).

To the extent Kravchuk challenges the BIA's underlying order summarily affirming an immigration judge's decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture, we decline to consider his contentions because the court previously rejected them in *Kravchuk v. Mukasey*, 263 F. App'x 599 (9th Cir. 2008). *See Merritt v. Mackey*, 932 F.2d 1317, 1320 (9th Cir. 1991) (explaining that under the "law of the case doctrine," one panel of an appellate court will not reconsider questions which another panel has decided on a prior appeal in the same case).

PETITION FOR REVIEW DENIED.