

JUN 20 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HENNADIY ZAPOROZHETS,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 12-72762

Agency No. A088-108-633

MEMORANDUM*

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

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Hennadiy Zaporozhets, 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 abuse of discretion the denial of a motion to reopen, and review de novo questions

* 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).

of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Zaporozhets's motion to reopen as untimely where the motion was filed more than eighteen months after his removal order became final, *see* 8 C.F.R. § 1003.2(c)(2), and Zaporozhets failed to demonstrate a material change in circumstances in Ukraine to qualify for the regulatory exception to the filing deadline, *id.* at (c)(3)(ii); *Toufighi v. Mukasey*, 538 F.3d 988, 996 (9th Cir. 2008).

Zaporozhets's contention that the BIA failed to articulate and apply the correct legal standard is not supported by the record.

PETITION FOR REVIEW DENIED.