

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 21 2013

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

CANDAN BENTURK,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-73496

Agency No. A070-127-162

MEMORANDUM*

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

Submitted November 6, 2013**
San Francisco, California

Before: REINHARDT, NOONAN, and WATFORD, Circuit Judges.

Candan Benturk seeks review of the decision by the Board of Immigration Appeals (“BIA”) denying his untimely motion to reopen removal proceedings to allow him to apply for asylum based on changed country conditions in Turkey. 8 C.F.R. § 1003.2(c)(3)(ii). We review the BIA’s denial of a motion to reopen 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. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005).

The BIA found inter alia that Benturk's claims that country conditions in Turkey have materially changed are "unduly speculative" and "unsupported by any personal or objective evidence." "[I]n the context of a motion to reopen, the BIA is not required to consider allegations unsupported by affidavits or other evidentiary material." *Patel v. INS*, 741 F.2d 1134, 1137 (9th Cir. 1984).

The BIA did not abuse its discretion in determining that Benturk did not provide personal or objective evidence in support of his claims. Even taking his asylum application as an affidavit, Benturk's claims are speculative and unsupported by the documentary evidence that he provides, much of which is not relevant to establishing that he has reason to fear persecution following his return to Turkey. In sum, Benturk has not provided sufficient evidence to show that country conditions in Turkey are now such that he has a reasonable fear of future persecution.

The BIA did not abuse its discretion in denying Benturk's motion to reopen, and Benturk's petition is therefore DENIED.