

DEC 11 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SERGIO EDILBERTO MARADIAGA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 12-70785

Agency No. A089-782-018

MEMORANDUM*

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

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Sergio Edilberto Maradiaga, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motions to reconsider and reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, and review for abuse of discretion the denial of

* 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).

motions to reconsider and reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Maradiaga's motion to reconsider where the motion did not establish any error of fact or law in the BIA's prior order. *See* 8 C.F.R. § 1003.2(b)(1).

The BIA applied the correct standard and did not abuse its discretion in denying Maradiaga's motion to reopen to apply for cancellation of removal where Maradiaga failed to establish prima facie eligibility for the relief sought. *See Mendez-Gutierrez v. Gonzales*, 444 F.3d 1168, 1171 (9th Cir. 2006) (A prima facie case is established "where the evidence reveals a reasonable likelihood that the statutory requirements for relief have been satisfied.") (internal quotation marks and citations omitted).

We lack jurisdiction to consider Maradiaga's contentions related to the BIA's dismissal of his appeal on November 29, 2011, because this petition for review is untimely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. Mukasey*, 533 F.3d 1103, 1110 (9th Cir. 2008).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.