

OCT 10 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERNANDO ORTIZ-ROMERO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73365

Agency No. A076-713-230

MEMORANDUM*

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

Submitted October 6, 2014**
Pasadena, California

Before: PREGERSON, TALLMAN, and BEA, Circuit Judges.

Fernando Ortiz-Romero (“Romero”) petitions for review of a decision by the Board of Immigration Appeals (“BIA”) that denied his second motion to reopen removal proceedings sua sponte. We have jurisdiction to review a final order of removal under 8 U.S.C. § 1252. We dismiss the petition.

* 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).

After considering Romero's second motion under 8 C.F.R. § 1003.2(a) for sua sponte reopening of his removal proceedings, the BIA held that it did not have jurisdiction under 8 C.F.R. § 1003.2(d).

Alternatively, the BIA stated that even if jurisdiction were proper, it would not reopen Romero's proceedings under its § 1003.2(a) sua sponte discretion.

We lack jurisdiction to review the BIA's unfettered § 1003.2(a) discretion not to reopen removal proceedings. See Ekimian v. INS, 303 F.3d 1153, 1159 (9th Cir. 2002); see also Sharma v. Holder, 633 F.3d 865, 874 (9th Cir. 2011).

PETITION FOR REVIEW IS DISMISSED.