

APR 30 2015

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALFREDO NAVARRO-GARCIA,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-70166

Agency No. A019-144-366

MEMORANDUM\*

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

Submitted April 22, 2015\*\*

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Alfredo Navarro-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's order denying his motion to reopen based on changed country conditions. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo

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\* 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).

claims of due process violations. *Singh v. Holder*, 638 F.3d 1264, 1268-69 (9th Cir. 2011). We deny in part and dismiss in part the petition for review.

Navarro-Garcia has not raised, and has therefore waived, any challenge to the agency's dispositive determinations that his motion to reopen was untimely and that he did not establish changed country conditions under 8 C.F.R.

§ 1003.23(b)(4)(I). *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (issues not raised in an opening brief are waived). Accordingly, Navarro-Garcia has not established that the BIA violated due process by denying his motion. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error and prejudice to prevail on a due process challenge).

We lack jurisdiction to consider Navarro-Garcia's remaining contentions because they were not raised before the agency and are therefore unexhausted. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (the court lacks jurisdiction to consider legal claims not presented in petitioner's administrative proceedings before the agency).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**