

DEC 14 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUBEN BASA CHING,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-72612

Agency No. A098-248-346

MEMORANDUM*

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

Submitted December 9, 2015**

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Ruben Basa Ching, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals' ("BIA) order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse 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).

discretion the denial of the motion to reopen. *Toufighi v. Mukasey*, 538 F.3d 988, 992 (9th Cir. 2008). We deny the petition for review.

Though the BIA was mistaken when it found that Ching did not file an asylum application with his motion to reopen, the BIA did not abuse its discretion in denying Ching's motion where it separately found the motion untimely, *see* 8 C.F.R. § 1003.2(c)(2), and found Ching failed to present material evidence of changed circumstances in the Philippines to qualify for a regulatory exception to the time limitation for filing a motion to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Toufighi*, 538 F.3d at 996 (stating the hurdles a petitioner must clear in order to prevail on a motion to reopen based on changed country conditions). We reject Ching's contention that the time limitation on motions to reopen does not apply to his motion.

We do not reach any challenges Ching raises to the agency's underlying credibility finding because they were addressed by this court in *Ching v. Holder*, No. 08-73007, 514 Fed. Appx. 678 (9th Cir. March 12, 2013).

PETITION FOR REVIEW DENIED.