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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIONE LAVAKA FATONGIA, AKA Sione L. Fatongia, Petitioner, v. LORETTA E. LYNCH, Attorney General, Respondent.	No. 14-71059 Agency No. A071-566-886 MEMORANDUM*

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

Submitted February 24, 2016**

Before: LEAVY, FERNANDEZ, and RAWLINSON, Circuit Judges.

Sione Lavaka Fatongia, a native and citizen of Tonga, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to

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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).

reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The agency did not abuse its discretion in denying Fatongia's motion to reopen based on possible eligibility for an I-360 visa petition, where Fatongia had not filed an I-360 visa petition with the United States Citizenship and Immigration Service and was therefore ineligible for any relief from removal. *See Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010) (the agency "can deny a motion to reopen" for "failure to establish a prima facie case for the relief sought" (internal quotation marks and citation omitted)); *Negrete-Ramirez v. Holder*, 741 F.3d 1047, 1056 (9th Cir. 2014) ("To be eligible for adjustment of status, an alien . . . must receive a visa.").

In light of this disposition, we do not reach Fatongia's remaining contentions regarding hardship and the Department of Homeland Security's alleged refusal to accept his filing fee.

PETITION FOR REVIEW DENIED.