

JUN 23 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS CAP,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 15-70584

Agency No. A095-790-261

MEMORANDUM*

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

Submitted June 14, 2016**

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Carlos Cap, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

abuse of discretion the denial of a motion to reopen. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion by denying Cap's motion to reopen as untimely, where the motion was filed more than a year after his final administrative order of removal, and Cap failed to demonstrate materially changed country conditions in Guatemala to qualify for the regulatory exception to the filing deadline. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi*, 597 F.3d at 998-990 (new evidence lacked materiality).

PETITION FOR REVIEW DENIED.