

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 3 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GREGORIO ALBERTO VASQUEZ-
BARRIOS,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 14-73310

Agency No. A071-593-821

MEMORANDUM*

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

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN and N.R. SMITH, Circuit Judges.

Gregorio Alberto Vasquez-Barrios, a native and citizen of Guatemala, petitions 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 abuse of discretion the denial of a motion to

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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

The BIA did not err or abuse its discretion in denying Vasquez-Barrios' motion to reopen as untimely, where he filed it more than two years after his final order of removal, *see* 8 C.F.R. § 1003.2(c)(2); 8 U.S.C. § 1229a(c)(7)(C)(i), and he failed to comply with the procedural requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), *see Singh v. Holder*, 658 F.3d 879, 884 (9th Cir. 2011) (*Lozada* compliance required to qualify for equitable tolling of the filing deadline based on ineffective assistance of counsel).

Because the timeliness issue is dispositive, the BIA did not err in not reaching the merits of Vasquez-Barrios' claims for adjustment of status, nor do we reach it here. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to reach non-dispositive issues). We also need not reach Vasquez-Barrios' contentions regarding prejudice.

PETITION FOR REVIEW DENIED.