

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 19 2018

FOR THE NINTH CIRCUIT

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

RUBEN MOVSISYAN,

No. 14-70329

Petitioner,

Agency No. A099-550-440

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted June 12, 2018**

Before: RAWLINSON, CLIFTON, and NGUYEN, Circuit Judges.

Ruben Movsisyan, a native and citizen of Armenia, 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 an abuse of discretion the denial of a motion to reopen. *Najmabadi v. Holder*, 597

* 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). Movsisyan's request for oral arguments, raised in his opening brief, is denied.

F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion in denying Movsisyan's motion to reopen as untimely where the motion was filed five years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and where Movsisyan failed to establish materially changed country conditions in Armenia to qualify for the regulatory exception to the time limitation for filing a motion to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Najmabadi*, 597 F.3d at 990-91 (petitioner failed to show evidence was "qualitatively different" to warrant reopening); *Toufighi v. Mukasey*, 538 F.3d 988, 996-97 (9th Cir. 2008) (evidence immaterial in light of prior adverse credibility determination).

We reject as without merit Movsisyan's contention that the BIA failed to consider his evidence and that he was deprived of the opportunity to challenge the IJ's adverse credibility determination.

Movsisyan's request for EAJA fees is denied.

PETITION FOR REVIEW DENIED.