

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 23 2019

FOR THE NINTH CIRCUIT

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

RAFAEL VAZQUEZ-SIENRA,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

Nos. 16-73219
17-71137

Agency No. A200-884-963

MEMORANDUM*

On Petition for Review of Orders of the
Board of Immigration Appeals

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

In these consolidated petitions for review, Rafael Vazquez-Sienra, a native and citizen of Uruguay, petitions for review of the Board of Immigration Appeals' ("BIA") orders dismissing his appeal from an immigration judge's decision ordering him removed, and denying his motion to reopen. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and we review de novo questions of law. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petitions for review.

Vazquez-Sienra has not raised, and therefore has waived, any challenge to the BIA's September 2, 2016, order dismissing his direct appeal. *See Corro-Barragan v. Holder*, 718 F.3d 1174, 1177 n.5 (9th Cir. 2013) (failure to contest issue in opening brief resulted in waiver).

The BIA did not abuse its discretion in denying Vazquez-Sienra's motion to reopen as a matter of discretion, where it considered both the positive and negative factors presented in his case and determined he was not entitled to a favorable exercise of discretion. *See* 8 C.F.R. § 1003.2(a) ("The Board has discretion to deny a motion to reopen even if the party moving has made out a prima facie case for relief."); *Virk v. INS*, 295 F.3d 1055, 1060 (9th Cir. 2002) (BIA must consider and weigh favorable and unfavorable factors in determining whether to deny a motion to reopen proceedings on discretionary grounds). We reject Vazquez-Sienra's contention that the BIA failed to sufficiently explain its reasoning or consider his contentions and relevant evidence. *See Najmabadi v. Holder*, 597 F.3d 983, 990-91 (9th Cir. 2010) (holding the BIA adequately considered evidence and sufficiently announced its decision); *Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006) (petitioner did not overcome the presumption that the BIA reviewed the record).

Because the discretionary determination is dispositive, we do not address Vazquez-Sienra's contentions regarding hardship to his mother. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to reach non-dispositive issues).

PETITIONS FOR REVIEW DENIED.