

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 10 2020

FOR THE NINTH CIRCUIT

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

ABEL SANCHEZ LINARES, AKA Abel
Hernandez, AKA Angel Hernandez, AKA
Abel Sanchez, AKA Abel Linares Sanchez,
AKA Angel Sanchez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 18-73031

Agency No. A205-311-710

MEMORANDUM*

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

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

Abel Sanchez Linares, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider and reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reconsider or reopen.

Mohammed v. Gonzales, 400 F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Sanchez Linares's motion to reconsider because his motion failed to identify any error of fact or law in the BIA's prior decision denying Sanchez Linares's motion to reopen as untimely. *See* 8 C.F.R. § 1003.2(b)(1) (requiring identification of factual or legal error in the prior decision).

The BIA did not abuse its discretion in denying Sanchez Linares's second motion to reopen as untimely because the motion was filed over two years after the order of removal became final, *see* 8 U.S.C. § 1229a(c)(7)(C)(i) (motion to reopen must be filed within 90 days of the final order of removal), and Sanchez Linares has not established that any statutory or regulatory exception applies, *see* 8 U.S.C. § 1229a(c)(7)(C); 8 C.F.R. § 1003.2(c)(3).

We lack jurisdiction to review the BIA's determination not to reopen proceedings sua sponte. *See Mejia-Hernandez v. Holder*, 633 F.3d 818, 823-24 (9th Cir. 2011); *cf. Bonilla v. Lynch*, 840 F.3d 575, 588 (9th Cir. 2016).

We deny Sanchez Linares's motion to supplement the record on appeal, and we do not consider the extra-record evidence that Sanchez Linares submitted for the first time with his opening brief. *See Barrientos v. Lynch*, 829 F.3d 1064,

1067 n.1 (9th Cir. 2016) (“As a general matter, we cannot consider extra-record evidence. We must limit our review of the merits of [the] petition to ‘the administrative record on which the order of removal is based.’” (citing 8 U.S.C. § 1252(b)(4)(A))).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.