

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 10 2020

FOR THE NINTH CIRCUIT

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

TECK KIM NG,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 18-72431

Agency No. A070-088-937

MEMORANDUM*

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

Submitted March 3, 2020**

Before: MURGUIA, CHRISTEN, and BADE, Circuit Judges.

Teck Kim Ng, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his motion to reopen exclusion proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

* 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).

The BIA denied Ng's motion to reopen because he failed to establish reasonable cause for his failure to appear at his hearing, and in the alternative, as a matter of discretion based upon his extreme lack of diligence in pursuing his motion. In his opening brief, Ng failed to challenge the BIA's denial of his motion to reopen as a matter of discretion, which is dispositive. *See INS v. Rios-Pineda*, 471 U.S. 444, 449 (1985) (a motion to reopen is within the sound discretion of the Attorney General, and the Attorney General has "broad discretion" to grant or deny motions to reopen); *Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in a party's opening brief are waived).

Because the denial as a matter of discretion is dispositive, we need not address Ng's contentions regarding whether he established reasonable cause for his failure to appear. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (the courts and the agency are not required to make findings on issues the decision of which is unnecessary to the results).

PETITION FOR REVIEW DENIED.