

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 9 2020

FOR THE NINTH CIRCUIT

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

MARVIN GEOVANNY MARTINEZ
PENA,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 18-70381

Agency No. A201-045-323

MEMORANDUM*

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

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Marvin Geovanny Martinez Pena, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of

* 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).

a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005).

We deny the petition for review.

The BIA did not abuse its discretion in declining to reopen based on ineffective assistance of counsel where Martinez Pena did not show prejudice from the untimely filing of his previous motion to reopen. *See Ray v. Gonzales*, 439 F.3d 582, 587-89 (9th Cir. 2006) (requiring prejudice to demonstrate ineffective assistance of counsel).

In light of this disposition, we need not reach Martinez Pena's remaining contentions. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts and agencies are not required to decide issues unnecessary to the results they reach).

PETITION FOR REVIEW DENIED.