

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUL 23 2020

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

NELSON ARMANDO FOLGAR,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 19-72794

Agency No. A094-290-134

MEMORANDUM*

On Petition for Review of an Order of the
Immigration Judge

Submitted July 14, 2020**

Before: CANBY, FRIEDLAND, and R. NELSON, Circuit Judges.

Nelson Armando Folgar, a native and citizen of Honduras, petitions for review of an immigration judge’s (“IJ”) order denying his motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008). We dismiss in part and deny in part 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).

We lack jurisdiction to consider Folgar's contention that his proposed particular social group is based on a familial relationship because he failed to raise the issue before the IJ. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

Assuming the IJ had the authority to reopen proceedings, she did not abuse her discretion in denying Folgar's untimely motion to reopen where he failed to establish prima facie eligibility for relief. *See* 8 C.F.R. § 1003.23(b)(2); *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1228-29 (9th Cir. 2016) (denying motion to reopen for failure to establish prima facie eligibility for the relief sought).

Folgar does not challenge the IJ's determination that there was no jurisdiction to reopen his initial removal proceedings or the IJ's denial of sua sponte reopening. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

Folgar's motion for a stay of removal (Docket Entry No. 1) is denied as moot.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.