

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 29 2020

FOR THE NINTH CIRCUIT

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

JOSE MANUEL CASTANEYRA
VILLALBA,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 16-70424

Agency No. A205-536-237

MEMORANDUM*

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

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

Jose Manuel Castaneyra Villalba, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400

* 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).

F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying the motion to reopen, where Castaneyra Villalba's evidence, including evidence of being harmed on account of being a Jehovah's Witness, was not previously unavailable, and Castaneyra Villalba did not establish prima facie eligibility for relief. *See* 8 U.S.C. § 1229a(C)(7); *Bhasin v. Gonzales*, 423 F.3d 977, 984, 987 (9th Cir. 2005) (new evidence in support of a motion to reopen must have been unavailable at the time of the hearing and must establish prima facie eligibility for the relief sought); 8 C.F.R. § 1003.2(c)(1).

We reject Castaneyra Villalba's contention that the BIA abused its discretion in denying the motion to reopen despite the absence of an opposition. *See Limsico v. INS*, 951 F.2d 210, 213 (9th Cir. 1991) (BIA has authority to deny unopposed motions to reopen).

PETITION FOR REVIEW DENIED.