

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 29 2021

FOR THE NINTH CIRCUIT

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

DIEGO LUCAS-MOLINA,

Petitioner,

v.

ROBERT M. WILKINSON, Acting
Attorney General,

Respondent.

No. 20-70372

Agency No. A206-457-340

MEMORANDUM*

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

Submitted January 20, 2021**

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

Diego Lucas-Molina, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider the BIA's prior order denying his motion to remand. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA's

* 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).

denial of a motion to reconsider. *Ghahremani v. Gonzales*, 498 F.3d 993, 997 (9th Cir. 2007). We deny the petition for review.

The BIA did not abuse its discretion in denying Lucas-Molina's motion to reconsider based on his wife's pending petition for a U visa, where Lucas-Molina failed to identify any error of law or fact in the BIA's prior decision. *See* 8 C.F.R. § 1003.2(b)(1) (a motion to reconsider must identify errors of fact or law in a prior decision); *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005) (the BIA abuses its discretion if it acts arbitrarily, irrationally, or contrary to law).

In his opening brief, Lucas-Molina does not challenge the BIA's denial of his motion to reconsider based on ineffective assistance of counsel. *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).

As stated in the court's March 27, 2020 order, the temporary stay of removal remains in place until issuance of the mandate.

PETITION FOR REVIEW DENIED.