

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 20 2021

FOR THE NINTH CIRCUIT

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

ALBERT NERESI MELIKIAN; NARINE
TER BARSEGHYAN,

Petitioners,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 19-73088

Agency Nos. A078-371-088
A096-154-743

MEMORANDUM*

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

Submitted September 14, 2021**

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Albert Neresi Melikian and Narine Ter Barseghyan, natives and citizens of Armenia, petition for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law. *Bonilla v. Lynch*, 840

* 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 575, 581 (9th Cir. 2016). We deny in part and dismiss in part the petition for review.

In their opening brief, petitioners do not challenge the BIA's dispositive determination that their motion to reopen is both untimely and number-barred and that petitioners failed to demonstrate an exception to the time limitation for motions to reopen. *See 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). To the extent petitioners challenge the BIA's decision not to reopen sua sponte, we lack jurisdiction to consider it. *See Mejia-Hernandez v. Holder*, 633 F.3d 818, 823-24 (9th Cir. 2011) (no jurisdiction to review the agency's sua sponte reopening determination); *cf. Bonilla*, 840 F.3d at 588 (“[T]his court has jurisdiction to review Board decisions denying *sua sponte* reopening for the limited purpose of reviewing the reasoning behind the decisions for legal or constitutional error.”).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.