

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 24 2023

FOR THE NINTH CIRCUIT

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

SAUL REY ZERMENO-CASTELLANOS,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 22-298

Agency No.
A094-301-260

MEMORANDUM*

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

Submitted October 20, 2023**
Pasadena, California

Before: PAEZ and H.A. THOMAS, Circuit Judges, and COLLINS,** District
Judge.

Saul Rey Zermeno-Castellanos petitions for review of an order issued by the

* 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).

*** The Honorable Raner C. Collins, United States District Judge for the
District of Arizona, sitting by designation.

Board of Immigration Appeals (BIA) denying his second motion to reopen his removal proceedings. We lack jurisdiction to review the BIA's discretionary decision. We therefore dismiss the petition for review.

The BIA denied Zermeno-Castellanos's second motion to reopen as untimely and number-barred, finding that no exceptional circumstances existed to justify reopening the proceedings *sua sponte*. We generally lack jurisdiction to review the BIA's exercise of its discretion not to *sua sponte* reopen removal proceedings. *See Lara-Garcia v. Garland*, 49 F.4th 1271, 1277 (9th Cir. 2022). And although there is an exception to this doctrine permitting review “for the limited purpose of determining whether the [BIA] based its decision on legal or constitutional error,” *Bonilla v. Lynch*, 840 F.3d 575, 581 (9th Cir. 2016), Zermeno-Castellanos points to no legal or constitutional error that he believes the BIA committed. We therefore lack jurisdiction to review the BIA's decision.

DISMISSED.¹

¹ Zermeno-Castellanos's request for a stay of removal, is denied as moot.