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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCOS JUAN-ESTEBAN, Petitioner, v. PAMELA BONDI, Attorney General, Respondent.	No. 24-3690 Agency No. A074-115-940 MEMORANDUM[*]

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

Submitted April 2, 2025[**]
Pasadena, California

Before: GILMAN[***], M. SMITH, and VANDYKE, Circuit Judges.

Marcos Juan-Esteban, a native and citizen of Guatemala who belongs to the Qanjobal ethnic group, petitions for review of a decision by the Board of Immigration Appeals (BIA) denying his motion to reopen proceedings based on

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes that this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

[***] The Honorable Ronald Lee Gilman, United States Circuit Judge for the Court of Appeals, 6th Circuit, sitting by designation.

changed country conditions in Guatemala. For the reasons set forth below, we deny in part and dismiss in part the petition for review.

1. The BIA did not abuse its discretion in denying Juan-Esteban's motion to reopen. We have jurisdiction under 8 U.S.C. § 1252, and we review the BIA's denial of a motion to reconsider or reopen under the abuse-of-discretion standard. *Tadevosyan v. Holder*, 743 F.3d 1250, 1252 (9th Cir. 2014). Motions to reopen must ordinarily be filed within 90 days of the final decision, but motions filed to reopen to apply (or reapply) for asylum or withholding of removal based on changed country conditions are exempt from the time limitations on motions to reopen. *See* 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(2)–(3). To establish a change in country conditions sufficient for the BIA to grant an untimely motion to reopen, "a petitioner must clear four hurdles: (1) he must produce evidence that country conditions have changed; (2) the evidence must be material; (3) the evidence must not have been available previously; and (4) the new evidence would establish prima facie eligibility for the relief sought." *Rodriguez v. Garland*, 990 F.3d 1205, 1209 (9th Cir. 2021) (cleaned up). "A petitioner's personal circumstances may act as 'a necessary predicate to the success of [a] motion' to reopen where the new personal circumstances make the provided changed country conditions evidence relevant to the petitioner's (changed) personal circumstances." *Id.* (alteration in original) (quoting *Chandra v. Holder*, 751 F.3d 1034, 1036–38 (9th Cir. 2014)).

Juan-Esteban failed to present any evidence of changed country conditions in Guatemala. The record shows that he submitted two country-conditions reports from 2022 and 2023, but neither establish that there has been a material change in violence against indigenous people in Guatemala or discuss changes in the availability of medical care.

Juan-Esteban's argument that there is a relationship between a change in country conditions and his worsening diabetes is similarly unsupported. A change in personal circumstances might be helpful to establish the materiality of changed country conditions, but motions to reopen based solely on changes in personal circumstances cannot succeed. *See Rodriguez*, 990 F.3d at 1209–10; *Chandra*, 751 F.3d at 1038. Juan-Esteban has not demonstrated the existence of any change in country conditions, such as declining medical care for indigenous people since the time of his merits hearing, that would make his worsening diabetes relevant to his motion.

2. As to Juan-Esteban's argument that the BIA abused its discretion in not reopening his proceedings sua sponte, we lack jurisdiction because the BIA's decision is purely discretionary. *See Magana-Magana v. Bondi*, --- F.4th ----, 2024 WL 5426572, at *14 (9th Cir. 2025); *see also* 8 C.F.R. § 1003.2(a). We therefore have no "sufficiently meaningful standard against which to judge the BIA's decision not to reopen." *Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002); *Mejia-*

Hernandez v. Holder, 633 F.3d 818, 823–24 (9th Cir. 2011). Although we have recognized that jurisdiction exists to review a BIA decision denying sua sponte reopening for legal or constitutional error, *see Bonilla v. Lynch*, 840 F.3d 575, 588 (9th Cir. 2016), Juan-Esteban does not raise a legal or constitutional claim in his petition.

PETITION FOR REVIEW DENIED IN PART AND DISMISSED IN PART.