

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

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

FAUSTINO ROMERO-VASQUEZ,

Petitioner,

v.

PAMELA BONDI, Attorney General,

Respondent.

No. 24-2600

Agency No. A202-069-515

MEMORANDUM*

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

Submitted November 17, 2025**
Phoenix, Arizona

Before: N.R. SMITH, HURWITZ, and COLLINS, Circuit Judges.

Faustino Romero-Vasquez, a citizen of Guatemala, timely petitions for review of a decision by the Board of Immigration Appeals (“BIA”) denying his motion to reopen his removal proceedings for further consideration of his application for cancellation of removal. We have jurisdiction under § 242 of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1252. *See He v. Gonzales*, 501 F.3d 1128, 1129 n.1 (9th Cir. 2007) (“The denial of a motion to reopen is a final administrative decision subject to judicial review in the court of appeals.”).

* 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)(C).

We review the denial of a motion to reopen for abuse of discretion. *Fonseca-Fonseca v. Garland*, 76 F.4th 1176, 1180 (9th Cir. 2023). We deny the petition.

The BIA provided two independent reasons for denying Romero-Vasquez’s motion to reopen. First, the BIA held that Romero-Vasquez was statutorily barred from receiving cancellation of removal pursuant to § 240B(d) of the INA, which states that any alien who is permitted to voluntarily depart and fails to do so is “ineligible, for a period of 10 years,” for cancellation of removal. 8 U.S.C. § 1229c(d)(1)(B). Second, the BIA held that, even absent the statutory bar of § 240B(d), Romero-Vasquez failed to establish prima facie eligibility for cancellation of removal under INA § 240A, 8 U.S.C. § 1229b, because the “evidence proffered with the motion [was] insufficient to show a reasonable likelihood that . . . [his] removal will result in exceptional and extremely unusual hardship to his children.”

Although Romero-Vasquez’s opening brief acknowledges that the BIA’s decision rested on two separate grounds, it challenges only the second ground (*i.e.*, whether he established a prima facie case of statutory eligibility for cancellation of removal) and not the first ground (*i.e.*, whether the bar of § 240B(d) applies). By failing to provide any grounds to disturb an alternative and fully sufficient ground for the BIA’s decision, Romero-Vasquez has forfeited any challenge to that decision. *See United States v. Kama*, 394 F.3d 1236, 1238 (9th Cir. 2005).

In any event, we discern no basis for disturbing the BIA’s conclusion that § 240B(d) barred Romero-Vasquez from receiving cancellation of removal for 10 years. An alien who is granted voluntary departure must pursue any motion to reopen “*before* expiration of the departure period” to avoid the penalties that follow from a failure to voluntarily depart (including the bar of §240B(d)). *See Dada v. Mukasey*, 554 U.S. 1, 21 (2008) (emphasis added). In its previous August 28, 2023 decision upholding the Immigration Judge’s denial of Romero-Vasquez’s underlying application for cancellation of removal, the BIA reinstated the period of voluntary departure, ordering Romero-Vasquez to depart within 60 days—*i.e.*, on or before October 27, 2023. The BIA’s decision expressly advised Romero-Vasquez of the statutory penalties that he would suffer should he fail to depart within the specified time, including ineligibility for cancellation of removal. The BIA’s decision also informed Romero-Vasquez that these penalties would *not* apply if he filed a motion to reopen “prior to the expiration of the voluntary departure period.” Romero-Vasquez filed a motion to reopen on November 24, 2023, almost a month after his voluntary departure period had expired. Romero-Vasquez did not argue before the BIA that the voluntary departure period was or should have been tolled, extended, or withdrawn. Given that there is “no dispute that [Romero-Vasquez’s] motion to reopen was filed after the period of voluntary departure had elapsed,” “the BIA was not simply correct to deny the motion; it was

compelled to do so by the operation of 8 U.S.C. § 1229c(d)(1) [INA § 240B(d)(1)].” *Granados-Oseguera v. Mukasey*, 546 F.3d 1011, 1015 (9th Cir. 2008).

Because the bar of § 240B(d) provides a sufficient basis to uphold the BIA’s denial of Romero-Vasquez’s motion to reopen, we need not consider whether the BIA was correct in its alternative conclusion that Romero-Vasquez failed to establish prima facie eligibility for cancellation of removal. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (“As a general rule courts . . . are not required to make findings on issues the decision of which is unnecessary to the results they reach.” (quoting *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976))).

PETITION DENIED.