

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 22 2026

FOR THE NINTH CIRCUIT

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

LINO PLAYAS SERRANO,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-3171

Agency No.
A200-154-205

MEMORANDUM*

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

Submitted September 18, 2026**
Pasadena, California

Before: NGUYEN, R. NELSON, and DESAI, Circuit Judges.

Petitioner Lino Playas Serrano is a native and citizen of Mexico who petitions for review of a Board of Immigration Appeals (“BIA”) decision denying his motion to reopen proceedings. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition.

* 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).

1. In his opening brief, Playas Serrano does not challenge the BIA’s dispositive finding that his motion to reopen is untimely and number-barred, nor does he argue that an exception to the time and number limitations applies. He thus forfeits the issue. *See Hernandez v. Garland*, 47 F.4th 908, 916 (9th Cir. 2022). Even if not forfeited, Playas Serrano’s motion to reopen is number-barred because it is his third motion and untimely because he filed it over eight years after the BIA’s final order of removal. *See* 8 U.S.C. § 1229a(c)(7)(A), (C). And there is no applicable exception to the time and number limitations: Playas Serrano is not challenging an in absentia removal order, *see id.* § 1229a(b)(5)(C), is not seeking to apply for asylum or withholding of removal based on changed country conditions or circumstances, *see id.* § 1229a(c)(7)(C)(ii), and did not jointly file the motion with the government, *see* 8 C.F.R. § 1003.2(c)(3)(iii). The BIA thus did not abuse its discretion by denying the motion to reopen. *See Cui v. Garland*, 13 F.4th 991, 995 (9th Cir. 2021).

2. The BIA declined to reopen Playas Serrano’s proceedings sua sponte because “the circumstances of this case, while sympathetic, do not present any exceptional situation that would warrant our sua sponte reopening.” The BIA did not “erroneously believe[] that the law forbade it from exercising its discretion.” *See Lona v. Barr*, 958 F.3d 1225, 1234 (9th Cir. 2020). On the contrary, the BIA expressly determined that Playas Serrano’s case did not meet the “exceptional

situation benchmark” necessary to reopen a case sua sponte. *See Bonilla v. Lynch*, 840 F.3d 575, 586 (9th Cir. 2016) (citing *Ekimian v. I.N.S.*, 303 F.3d 1153, 1159–60 (9th Cir. 2002)) (citation modified). We thus lack jurisdiction to review the BIA’s decision not to exercise its sua sponte authority. *Magana-Magana v. Bondi*, 129 F.4th 557, 575 (9th Cir. 2025).

DENIED in part and **DISMISSED** in part.¹

¹ Playas Serrano’s motion for a stay of removal, Dkt. No. 2, is denied.