NOT FOR PUBLICATION

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARSEN MELIKSETIAN; G. M.; LUSINE MELIKSETIAN, Petitioners, v. TODD BLANCHE, Attorney General, Respondent.	No. 25-3328 Agency Nos. A220-643-141 A220-643-143 A220-643-142 MEMORANDUM[*]

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

Submitted October 28, 2026[**]
Pasadena, California

Before: OWENS, SANCHEZ, and TUNG, Circuit Judges.

Petitioner Arsen Meliksetian, his wife, Lusine Meliksetian, and their daughter, G.M., seek review of a Board of Immigration Appeals ("BIA") decision

[*] 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).

denying their untimely motion to reopen based on change of country conditions.[1] We have jurisdiction pursuant to 8 U.S.C. § 1252(a), and we deny the petition.

We "review the BIA's denial of a motion to reopen for an abuse of discretion." *Hernandez-Ortiz v. Garland*, 32 F.4th 794, 800 (9th Cir. 2022). The BIA's decision "should be left undisturbed unless it is 'arbitrary, irrational, or contrary to law.'" *Yan Rong Zhao v. Holder*, 728 F.3d 1144, 1147 (9th Cir. 2013) (citation omitted).

1. The BIA did not abuse its discretion in denying Meliksetian's motion to reopen as untimely, *see* 8 U.S.C. § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c)(2), or in finding that Meliksetian failed to qualify for the changed country conditions exception, *see* 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii). Where, as here, a petitioner's underlying claim was denied based on an adverse credibility finding, a petitioner must "either overcome the prior determination or show that the new claim is independent of the evidence that was found to be not credible." *Greenwood v. Garland*, 36 F.4th 1232, 1235 (9th Cir. 2022) (citation omitted).

Meliksetian does not challenge the prior adverse credibility finding;[2] rather,

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[1] Petitioner Arsen Meliksetian is the lead petitioner; his wife and their daughter seek derivative relief. For simplicity, we refer only to the lead petitioner.

[2] The Immigration Judge found Meliksetian not credible and denied his applications for relief from removal. The BIA affirmed the decision, and Petitioner sought review. We denied the petition, concluding that the agency's adverse credibility finding was supported by substantial evidence. *Meliksetian v. Garland*, No. 23-3849, 2025 WL 251424 (9th Cir. Jan. 21, 2025)

he argues that his current claim for relief is independent of his discredited testimony. Meliksetian seeks reopening because he is a "conscientious objector to participation in inhuman acts" and fears "return to Russia because he would be subject to criminal persecution for draft evasion and treason." Meliksetian submitted new evidence in support of his motion, including a Summons for Interrogation, Compulsory Court Summons, and independent news articles documenting intensified military mobilization and prosecution of draft evaders. But this basis for reopening rests on the same factual premise as his prior testimony that the IJ discredited: that he feared removal to Russia because he does not want to "die in an unjust war" and the "[Russian-Ukrainian] war is very unjust."

Without credible testimony that he has a conscientious objection to the war, Meliksetian's fear amounts to confronting the consequences of failing to comply with his military obligations. And "forced conscription or punishment for evasion of military duty generally does not constitute persecution on account of a protected ground." *Movsisian v. Ashcroft*, 395 F.3d 1095, 1097 (9th Cir. 2005). Because Meliksetian is unable to demonstrate prima facie eligibility for asylum, the BIA did not abuse its discretion in denying his motion to reopen. *See Silva v. Garland*, 993 F.3d 705, 718 (9th Cir. 2021) (a petitioner seeking to reopen on the basis of changed country conditions must demonstrate prima facie eligibility for the relief

sought); *Greenwood*, 36 F.4th at 1236 (The BIA can "reject a motion to reopen by relying on a previous adverse credibility determination if that earlier finding factually undermines the petitioner's new claim.").

PETITION DENIED.[3]

[3] Petitioners' motion to stay removal (Dkt. 4) is DENIED.