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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RRAFMAN KOCI,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 12-70998

Agency No. A075-682-288

MEMORANDUM*

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

Submitted November 7, 2017**
Pasadena, California

Before: REINHARDT, GILMAN,** and WARDLAW, Circuit Judges.

* 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 Ronald Lee Gilman, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

Rrafman Koci, a native and citizen of Albania, petitions for review of the Board of Immigration Appeals's (BIA) denial of his third motion to reopen. We have jurisdiction under 8 U.S.C. § 1252(a)(1), and we deny the petition.

The BIA did not abuse its discretion in denying Koci's third motion to reopen. Ordinarily, "a party may file only one motion to reopen deportation or exclusion proceedings . . . and that motion must be filed no later than 90 days after the date on which the final administrative decision was rendered" 8 C.F.R. § 1003.2(c)(2). A statutory exception is available, however, if the petitioner presents evidence that is "material and was not available and could not have been discovered or presented at the previous hearing." *Id.* § 1003.2(c)(3)(ii).

Koci's third motion to reopen is both untimely and successive. Moreover, Koci has failed to demonstrate a material change of conditions in Albania that would entitle him to the statutory exception. The publication of our 2008 memorandum disposition on the Internet is not material to Koci's application for relief because Koci has not demonstrated that the publication increased his risk of harm in Albania. Nor are the news articles attached to Koci's motion material. Although they demonstrate that tensions between democrats and socialists continue, they do not establish a material change in Albania. Even more importantly, however, Koci has not presented evidence that negates the

Immigration Judge's initial adverse credibility finding, which we affirmed in a prior appeal. *Koci v. Mukasey*, 270 F. App'x 644 (9th Cir. 2008).

PETITION FOR REVIEW DENIED.