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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GIDEON SAHAT PERWIRA
SIHOTANG,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-71271

Agency No. A078-020-208

MEMORANDUM*

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

Submitted September 23, 2014**

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

Gideon Sahat Perwira Sihotang, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Najmabadi v. Holder*, 597

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

F.3d 983, 986 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion by denying Sihotang's second motion to reopen as untimely and number-barred, where Sihotang filed the motion six years after the BIA's final decision, *see* 8 C.F.R. § 1003.2(c)(2), and failed to establish materially changed circumstances in Indonesia to qualify for the regulatory exception to the time and number limitations, *see id.* § 1003.2(c)(3)(ii); *Najmabadi*, 597 F.3d at 987-89 (evidence of changed circumstances must be qualitatively different from what could have been presented at prior hearing).

We lack jurisdiction to consider the BIA's discretionary decision not to reopen proceedings sua sponte pursuant to 8 C.F.R. § 1003.2(a). *See Mejia-Hernandez v. Holder*, 633 F.3d 818, 823-24 (9th Cir. 2011); *see also Matter of G-D-*, 22 I. & N. Dec. 1132, 1135 (BIA 1999) (BIA's consideration of whether a fundamental change in the law warrants reopening involves an exercise of its sua sponte authority).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.