

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 19 2017

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

EDWIN LAINEZ,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 16-70160

Agency No. A094-827-961

MEMORANDUM *

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

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Edwin Lainez, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion to reopen, *Toufighi v. Mukasey*,

* 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).

538 F.3d 988, 992 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Lainez’s untimely motion to reopen, *see* 8 C.F.R. § 1003.2(c)(2), where Lainez failed to demonstrate prima facie eligibility for the relief he sought, *see Toufighi*, 538 F.3d at 996 (the BIA can deny a motion to reopen for failure to establish a prima facie case); *see also INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992) (“[S]ince the statute makes motive critical, [an applicant] must provide *some* evidence of it, direct or circumstantial”); *see Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

PETITION FOR REVIEW DENIED.