

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 23 2019

FOR THE NINTH CIRCUIT

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

ANIBAL VAREDES-HUANO,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

Nos. 17-70851
17-72836

Agency No. A070-934-910

MEMORANDUM*

On Petitions for Review of Orders of the
Board of Immigration Appeals

Submitted May 21, 2019**

Before: THOMAS, Chief Judge, FRIEDLAND and BENNETT, Circuit Judges.

In these consolidated petitions for review, Anibal Varedes-Huano, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") orders denying his motion to reopen removal proceedings based on ineffective assistance of counsel, his motion to reopen and reissue the BIA's

* 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).

2014 decision, and his motion to reconsider the denial of the first motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petitions for review.

The BIA did not abuse its discretion in denying Varedes-Huano's motions to reopen as untimely, where they were both filed more than 90 days after his final administrative order, and he has not shown he qualifies for any regulatory or statutory exception to the filing deadline or number bar. *See* 8 U.S.C.

§ 1229a(c)(7)(A), (C)(i),(iv); 8 C.F.R. § 1003.2(c)(2)-(3). To the extent Varedes-Huano contends he is entitled to equitable tolling of the filing deadline and number bar, we lack jurisdiction to consider this unexhausted contention. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (“We lack jurisdiction to review legal claims not presented in an alien’s administrative proceedings before the BIA.”).

Varedes-Huano does not raise, and therefore waives any challenge to, the BIA’s denial of his motion to reconsider. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013) (issues not specifically raised and argued in an opening brief are waived).

Because these determinations are dispositive, we need not address Varedes-Huano’s contentions regarding any ineffective assistance of counsel or compliance with the procedural requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988). *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (the courts and

the agency are not required to make findings on issues the decision of which is unnecessary to the results).

PETITIONS FOR REVIEW DENIED in part; DISMISSED in part.