

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2018

FOR THE NINTH CIRCUIT

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

ANTONIO GUILLEN-ESTRADA,

No. 18-70158

Petitioner,

Agency No. A029-638-020

v.

MEMORANDUM*

MATTHEW G. WHITAKER, Acting
Attorney General,

Respondent.

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

Submitted December 17, 2018**

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Antonio Guillen-Estrada, a native and citizen of Mexican, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

* 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).

discretion the denial of a motion to reopen and review de novo questions of law, including claims of due process violations. *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004). We deny the petition for review.

The BIA did not abuse its discretion in denying Guillen-Estrada's motion to reopen where he failed to establish prima facie eligibility for asylum, withholding of removal, or relief under the Convention Against Torture. *See Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010) (the BIA can deny a motion to reopen for failure to establish prima facie eligibility for the relief sought); *Bolshakov v. I.N.S.*, 133 F.3d 1279, 1280–81 (9th Cir. 1998) (denying a motion to reopen despite extortionist demands). We reject Guillen-Estrada's contention that his due process rights were violated, *Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 926-27 (9th Cir. 2007), and we reject his contention that the BIA engaged in improper fact finding.

Guillen-Estrada's motion to file a late reply brief is granted.

PETITION FOR REVIEW DENIED.