

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2017

FOR THE NINTH CIRCUIT

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

PUSHPAMALAR
SATCHITHANANTHAN,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 14-70620

Agency No. A079-784-814

MEMORANDUM*

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

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Pushpamalar Satchithanathan, a native and citizen of Sri Lanka, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen.

* 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).

Najmabadi v. Holder, 597 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 in denying Satchithanathan's third motion to reopen as untimely and numerically-barred where the motion was filed more than nine years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and where Satchithanathan failed to demonstrate changed country conditions in Sri Lanka to qualify for the regulatory exception to the time and number limitations for filing a motion to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Najmabadi*, 597 F.3d at 987-90 (petitioner failed to show evidence was "qualitatively different" to warrant reopening). We reject Satchithanathan's contentions that the BIA failed to consider record evidence. *See* *Najmabadi*, 597 F.3d at 990-91 (the BIA adequately considered evidence and sufficiently announced its decision).

We lack jurisdiction to review 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); *cf.* *Bonilla v. Lynch*, 840 F.3d 575, 588 (9th Cir. 2016).

Finally, we reject as without merit Satchithanathan's contention that intervening case law requires reconsideration of this court's decision in

Satchithananthan v. Holder, 508 Fed. Appx. 652, 653 (9th Cir. 2013).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.