

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DEC 19 2016

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

CLEMENTE JAVIER,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70719

Agency No. A097-869-136

MEMORANDUM*

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

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Clemente Javier, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We dismiss the petition for review.

To the extent Javier is challenging the BIA's August 2013 order dismissing

* 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).

his appeal from an immigration judge's denial of his application for cancellation of removal for failure to establish the requisite hardship, this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1) ("The petition for review must be filed not later than 30 days after the date of the final order of removal.").

We lack jurisdiction to review the BIA's denial of Javier's motion to reopen, where the evidence submitted with the motion was not so distinct from that previously considered in the underlying denial of cancellation of removal as to constitute a new ground of hardship. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006).

PETITION FOR REVIEW DISMISSED.