

DEC 23 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAVIER ANTONIO CIFUENTES SOSA,
AKA Javier Tony Cifuentes,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-70844

Agency No. A029-263-073

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.

Javier Antonio Cifuentes Sosa, a native and citizen of Guatemala, 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.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo questions of law. *Hernandez v. Mukasey*, 524 F.3d 1014, 1017 (9th Cir. 2008). We deny the petition for review.

The BIA did not abuse its discretion in denying Cifuentes Sosa’s motion to reopen, where he did not provide evidence of the reason why his convictions were vacated. *See INS v. Abudu*, 485 U.S. 94 (1988) (BIA may deny a motion to reopen for failure to show prima facie eligibility for the relief sought); *Poblete Mendoza v. Holder*, 606 F.3d 1137, 1141 (9th Cir. 2010) (“A conviction vacated for reasons ‘unrelated to the merits of the underlying criminal proceedings’ may be used as a conviction in removal proceedings whereas a conviction vacated because of a procedural or substantive defect in the criminal proceedings may not.” (internal citation omitted)).

Contrary to Cifuentes Sosa’s contentions, the BIA did not ignore or misapply relevant precedent, place an improper burden of proof on him, or improperly analyze evidence of Cifuentes Sosa’s state court proceedings. Cifuentes Sosa’s reliance on law concerning the government’s burden to establish removability is misplaced.

PETITION FOR REVIEW DENIED.