

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 25 2019

FOR THE NINTH CIRCUIT

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

JOSE MANUEL MACHORRO-ZAMORA,

No. 18-70801

Petitioner,

Agency No. A200-947-704

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Jose Manuel Machorro-Zamora, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's denial of his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and review de novo claims of ineffective assistance of counsel. *Mohammed*

* 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).

v. Gonzales, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The agency did not abuse its discretion in denying reopening based on ineffective assistance of counsel. Machorro-Zamora did not show his former attorney failed to perform with sufficient competence by declining to file an application for cancellation of removal, where Machorro-Zamora was ineligible for that relief at the time. *See id.* at 793 (to demonstrate ineffective assistance of counsel, a petitioner must show counsel failed to perform with sufficient competence); *Torres-Chavez v. Holder*, 567 F.3d 1096, 1101 (9th Cir. 2009) (declining to find ineffective assistance where counsel made a tactical decision; court must evaluate counsel's decisions from counsel's perspective at the time).

PETITION FOR REVIEW DENIED.