

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 15 2019

FOR THE NINTH CIRCUIT

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

MARCELINO SEGUNDO-SANCHEZ,
AKA Marcelino Sanchez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 18-71367

Agency No. A200-248-313

MEMORANDUM*

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

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Marcelino Segundo-Sanchez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir.

* 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).

2010). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Segundo-Sanchez's untimely motion to reopen where he failed to establish that he qualified for an exception to the time limitation for filing a motion to reopen. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Toufighi v. Mukasey*, 538 F.3d 988, 996 (9th Cir. 2008) (BIA can deny a motion to reopen for failure to establish a prima facie case for the relief sought); *see also Cano-Merida v. INS*, 311 F.3d 960, 966 (9th Cir. 2002) (no abuse of discretion where motion to reopen did not establish prima facie eligibility for CAT relief).

We lack jurisdiction to consider Segundo-Sanchez's contention regarding the harm he fears as a person with a nexus to America who will be targeted by cartels because he failed to raise it to the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

We reject Segundo-Sanchez's contention that the BIA did not properly evaluate all of his evidence.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.