

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 8 2022

FOR THE NINTH CIRCUIT

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

JUAN CARLOS MANCILLA-TORRES,

No. 18-71831

Petitioner,

Agency No. A075-265-871

v.

MEMORANDUM\*

MERRICK B. GARLAND, Attorney  
General,

Respondent.

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

Submitted December 6, 2022\*\*  
Seattle, Washington

Before: McKEOWN, MILLER, and MENDOZA, Circuit Judges.

Juan Carlos Mancilla-Torres, a native and citizen of Mexico, seeks review of an order of the Board of Immigration Appeals dismissing his appeal from an immigration judge's decision. The immigration judge had denied his motion to

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\* 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).

reopen his removal proceedings and his request to reopen his removal proceedings sua sponte. We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

The Board correctly determined that it lacked jurisdiction to consider Mancilla-Torres's motion to reopen his April 2001 removal order because that order was reinstated in May 2003. Under 8 U.S.C. § 1231(a)(5), if "an alien has reentered the United States illegally after having been removed . . . , under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed." Accordingly, a "motion to reopen a reinstated prior removal order is barred under § 1231(a)(5)." *Bravo-Bravo v. Garland*, 40 F.4th 911, 916 (9th Cir. 2022). Therefore, neither the immigration judge nor the Board had jurisdiction to address Mancilla-Torres's challenge to the removal order.

The Board also determined that it lacked authority to reopen the removal proceedings sua sponte. Because Section 1231(a)(5) provides that "an alien's prior removal order and proceedings are 'not subject to being reopened, . . . the regulation providing the [Board's] *sua sponte* reopening authority cannot override that command.'" *Bravo-Bravo*, 40 F.4th at 917 (quoting *Rodriguez-Saragosa v. Sessions*, 904 F.3d 349, 355 (5th Cir. 2018)) (internal quotation marks omitted).

**PETITION DENIED.**