

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2023

FOR THE NINTH CIRCUIT

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

LUIS ENRIQUE PACHECO,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 19-73296

Agency No. A091-144-131

MEMORANDUM\*

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

Submitted February 14, 2023\*\*

Before: FERNANDEZ, FRIEDLAND, and H.A. THOMAS, Circuit Judges.

Luis Enrique Pacheco, a native and citizen of Nicaragua, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his motion to reopen his reinstated removal

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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).

proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny the petition for review.

Because a prior removal order that has been reinstated “is not subject to being reopened or reviewed,” 8 U.S.C. § 1231(a)(5), the agency lacked jurisdiction to consider Pacheco’s motion to reopen, *see Gutierrez-Zavala v. Garland*, 32 F.4th 806, 811 (9th Cir. 2022) (“When the BIA denies a motion to reopen a reinstated removal order on grounds other than a lack of jurisdiction, we may deny a petition challenging that ruling based on the BIA’s lack of jurisdiction under 8 U.S.C. § 1231(a)(5).”); *Cuenca v. Barr*, 956 F.3d 1079, 1084 (9th Cir. 2020) (“[T]his Court repeatedly has interpreted [8 U.S.C.] § 1231(a)(5) as divesting the BIA of jurisdiction to reopen a removal proceeding after reinstatement of the underlying removal order.”).

Because this determination is dispositive of his claim, we do not address Pacheco’s remaining contentions. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) (courts are not required to decide issues unnecessary to the results they reach).

**PETITION FOR REVIEW DENIED.**