

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-60641
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 11, 2018

Lyle W. Cayce
Clerk

EDGAR ARMANDO BRAN-GARRIDO,

Petitioner

v.

JEFFERSON B. SESSIONS, III, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A200 133 858

Before REAVLEY, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Edgar Armando Bran-Garrido, a native and citizen of Guatemala, petitions this court for review of the decision of the Board of Immigration Appeals (BIA) denying his second, untimely motion to reopen. In support of his petition, Bran-Garrido contends that the BIA erred in finding that conditions in Guatemala have not changed. Further, he notes that there have been changes in his personal life, that he showed prima facie eligibility for

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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relief from removal on account of his evangelical Christian religion and membership in the Evangelical Christian Church, and that the BIA should have exercised its sua sponte authority to reopen his case. In his brief, Bran-Garrido also observes that he did not receive notice of his removal hearing.

The BIA has the authority to reopen removal proceedings, even when, as herein, the alien's motion to reopen is time- and number-barred, if the request for relief is "based on changed circumstances arising in the country of nationality or the country to which deportation has been ordered, if such evidence is material and was not available and could not have been discovered or presented at the previous hearing." 8 C.F.R. § 1003.2(c)(3)(ii). We review the BIA's denial of a motion to reopen under "a highly deferential abuse-of-discretion standard." *Gomez-Palacios v. Holder*, 560 F.3d 354, 358 (5th Cir. 2009). There is no abuse of discretion if the BIA's denial "is not capricious, without foundation in the evidence, or otherwise so irrational that it is arbitrary rather than the result of any perceptible rational approach." *Id.*

Neither Bran-Garrido's motion to reopen nor his petition for review compares, in any meaningful way, the conditions in Guatemala in 2006 at the time of his removal hearing with the conditions in 2017 when he sought reopening. Our review of the record confirms that substantial evidence supports the BIA's finding that Bran-Garrido did not demonstrate a change in country conditions warranting reopening. *See Carbajal-Gonzalez v. INS*, 78 F.3d 194, 197 (5th Cir. 1996). Bran-Garrido's assertions regarding changes in his personal life do not constitute changed country conditions. *See Ramos-Lopez v. Lynch*, 823 F.3d 1024, 1026 (5th Cir. 2016). Based on the evidence presented, the BIA's decision was substantially reasonable and does not amount to an abuse of discretion. *See id.*; *Carbajal-Gonzalez*, 78 F.3d at 194, 197.

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Because Bran-Garrido failed to show changed country conditions, we do not consider his arguments concerning his eligibility for relief from removal. *See Ramos-Lopez*, 823 F.3d at 1026. To the extent Bran-Garrido claims that the BIA erred in failing to sua sponte reopen the removal proceedings, we lack jurisdiction to consider his claim. *See Diaz v. Sessions*, 894 F.3d 222, 228 (5th Cir. 2018). To the extent Bran-Garrido claims that he did not receive notice of his removal hearing, that issue was raised in his first motion to reopen rather than in his instant motion. Because he dismissed his petition for review from the denial of his first motion to reopen, the earlier decision denying relief based on lack of notice is not before us. *See Guevara v. Gonzales*, 450 F.3d 173, 176 (5th Cir. 2006).

The petition for review is DENIED.