

DEC 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ELIZA VARDUMYAN,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 06-73516

Agency Nos. A078-245-819

MEMORANDUM*

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

Submitted December 17, 2008**

Before: WALLACE, TROTT, and RYMER, Circuit Judges.

Eliza Vardumyan, a citizen of Armenia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Vardumyan's motion to reopen alleging ineffective assistance of counsel because Vardumyan failed to explain the eight-month delay between the entry of the BIA's previous order and her retention of current counsel, or otherwise establish grounds for equitable tolling. *See id.* at 897 (equitable tolling is available "when a petitioner is prevented from filing because of deception, fraud, or error," as long as the petitioner acted with due diligence).

Vardumyan's remaining contentions are unpersuasive.

PETITION FOR REVIEW DENIED.