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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>EVERARDO RODRIGUEZ-SOLIS,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 05-74064

Agency No. A092-887-539

MEMORANDUM*

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

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Everardo Rodriguez-Solis, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing as untimely his appeal from an immigration judge's ("IJ") removal order. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review de novo whether the BIA had jurisdiction over an untimely appeal, *Da Cruz v. INS*, 4 F.3d 721, 722 (9th Cir. 1993), and we deny the petition for review.

The record reflects that the IJ's decision was rendered on June 10, 2004. Rodriguez-Solis' notice of appeal was therefore due by July 12, 2004, but it was received by the BIA on July 14, 2004. The BIA properly dismissed the appeal as untimely, 8 C.F.R. § 1003.38(b), as Rodriguez-Solis has not presented "rare circumstances" warranting an exception to the filing deadline, *see, e.g., Oh v. Gonzales*, 406 F.3d 611, 613 (9th Cir. 2005).

In light of our disposition, we need not reach Rodriguez-Solis' remaining contentions.

PETITION FOR REVIEW DENIED.