

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 07 2009

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

OFELYA MALOYAN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-75050

Agency No. A077-124-561

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Ofelya Maloyan, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen based on ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C.

* 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).

§ 1252. Reviewing for abuse of discretion, *Singh v. Gonzales*, 491 F.3d 1090, 1095 (9th Cir. 2007), we deny the petition for review.

The BIA did not abuse its discretion in denying Maloyan's motion to reopen because the motion was filed more than two years after the BIA's order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and Maloyan failed to establish that she acted with the due diligence required for equitable tolling. *See Singh*, 491 F.3d at 1096-97.

PETITION FOR REVIEW DENIED.