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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL VALENZUELA CABRERA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71083

Agency No. A099-047-166

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

Manuel Valenzuela Cabrera, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial of his motion to reopen as untimely. In the motion, he sought to reapply for protection under the Convention

* 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).

Against Torture. Our jurisdiction is governed by 8 U.S.C. § 1252, and we deny the petition for review.

Valenzuela Cabrera contends that the Board erred in denying his motion as untimely because there is no time limit for motions to reopen that seek relief under CAT and because he only recently became aware of “widespread torture” in Mexico. Valenzuela Cabrera filed the motion to reopen outside the 90-day time limit set forth in 8 C.F.R. § 1003.2(c)(2). In addition, he failed to present material evidence of changed country conditions that was not available and could not have been presented at the previous proceeding. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *He v. Gonzales*, 501 F.3d 1128, 1131-32 (9th Cir. 2007).

Valenzuela Cabrera also contends that he established a prima facie case of eligibility for relief under CAT. The generalized evidence attached to his motion did not meet the CAT standard. *See Nuru v. Gonzales*, 404 F.3d 1207, 1216 (9th Cir. 2005) (holding that CAT applicant must establish that it is more likely than not that he would be tortured if removed to his native country); *Ordonez v. INS*, 345 F.3d 777, 785 (9th Cir. 2003) (holding that motion to reopen must establish prima facie case demonstrating reasonable likelihood that requirements for relief have been satisfied).

PETITION FOR REVIEW DENIED.