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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANNALIZE ROSA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 06-75742

Agency No. A070-019-119

MEMORANDUM*

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

Submitted June 16, 2009**

Before: HAWKINS, PAEZ, and N.R. SMITH, Circuit Judges.

Annalize Rosa, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals (“BIA”) order denying her motion to reopen removal proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the BIA's denial of 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 Rosa's motion to reopen as untimely because the motion was filed more than five years after the BIA's March 7, 2001 order, *see* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must generally be filed within 90 days of the final order), and Rosa did not establish that she was entitled to equitable tolling, *see Iturribarria*, 321 F.3d at 897 (deadline for filing a motion to reopen can be equitably tolled "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence").

PETITION FOR REVIEW DENIED.