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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SARBJIT SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-70386

Agency No. A073-396-618

MEMORANDUM*

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

Submitted June 16, 2009**

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

Sarbjit Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen to apply for adjustment of status. 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 denial of a motion to reopen, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh’s motion as untimely because it was filed more than three years after the BIA issued its final order. *See* 8 C.F.R. § 1003.2(c)(2); *Dela Cruz v. Mukasey*, 532 F.3d 946, 947 (9th Cir. 2008) (per curiam) (“The filing of a petition for review in this court does not toll the statutory time limit for filing a motion to reopen before the BIA.”).

PETITION FOR REVIEW DENIED.