

AUG 17 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARVIN R. OROZCO-RAMIREZ,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 07-70101

Agency No. A074-802-933

MEMORANDUM*

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

Submitted August 11, 2009**

Before: KLEINFELD, M. SMITH, and IKUTA, Circuit Judges.

Marvin R. Orozco-Ramirez, a native and citizen of Guatemala, petitions for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings. Our jurisdiction is governed by 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. We review the denial of a motion to reopen for abuse of discretion.

Ordonez v. INS, 345 F.3d 777, 782 (9th Cir. 2003). We dismiss in part and deny in part the petition for review.

The BIA did not abuse its discretion in denying Orozco's motion to reopen because it was untimely. *See* 8 C.F.R. § 1003.2(c)(2). We lack jurisdiction to consider Orozco's contention that the BIA should have equitably tolled the filing deadline because Orozco did not exhaust the contention before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.