

AUG 31 2009

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

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MANVEL HAKOBYAN,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71203

Agency No. A075-713-990

MEMORANDUM\*

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

Submitted August 20, 2009\*\*

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Manvel Hakobyan, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen.

We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for abuse of

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\* 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).

discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion in denying Hakobyan's motion as untimely because the motion was filed more than 33 months after the BIA's October 6, 2003 order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and Hakobyan failed to establish that he acted with the due diligence required for equitable tolling, *see Iturribarria*, 321 F.3d at 897 (equitable tolling available where "petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence").

Hakobyan's remaining contentions are unavailing.

**PETITION FOR REVIEW DENIED.**