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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMRITPAL KAUR SAR, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 06-75340 Agency No. A072-112-098 MEMORANDUM[*]

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

Submitted September 14, 2009[**]

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Amritpal Kaur Sar, a native of Malaysia and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen deportation proceedings based on ineffective assistance of counsel. We

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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).

RB/Research

have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo claims of due process violations, including claims of ineffective assistance of counsel in immigration proceedings. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Sar's motion to reopen as untimely where the motion was filed more than 3 years after the BIA's September 18, 2002, order dismissing her appeal, *see* 8 C.F.R. § 1003.2(c)(2), and Sar failed to establish the due diligence required to warrant tolling of the filing deadline, *see Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003) (equitable tolling is available to a petitioner who is prevented from filing due to deception, fraud or error, and exercises due diligence).

PETITION FOR REVIEW DENIED.