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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TAREQ SALAM, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 06-72281 Agency No. A070-944-885 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.

Tareq Salam, a native and citizen of Bangladesh, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen alleging ineffective assistance of counsel. We have jurisdiction under

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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).

JT/Research

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and 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 acted within its discretion in denying Salam's motion to reopen as untimely because it was not filed within 90 days of the BIA's February 27, 2003, order, 8 C.F.R. § 1003.2(c)(2), and because Salam presented insufficient evidence to establish prejudice, *see Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 826 (9th Cir. 2003) (to prevail on an ineffective assistance of counsel claim a petitioner must demonstrate prejudice).

PETITION FOR REVIEW DENIED.