

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 30 2009

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

GREGORIO ZUNIGA-GUTIERREZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-74066

Agency No. A024-929-117

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Gregorio Zuniga-Gutierrez, a native and citizen of Guatemala, petitions pro se 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. We review

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Zuniga-Gutierrez's motion to reopen as untimely where he filed the motion more than 16 years after the BIA issued the final order of deportation, *see* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed within 90 days of final order of deportation or by September 30, 1996), and failed to demonstrate that any exceptions applied to excuse the late filing, *see* 8 C.F.R. § 1003.2(c)(3).

PETITION FOR REVIEW DENIED.