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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GARY PAUL MATHARO, aka Gary Paul Singh Matharoo,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 07-71054

Agency No. A072-142-314

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.

Gary Paul Matharo, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252.

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

We review 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 Matharo's motion because it was filed more than 6 years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and Matharo failed to establish grounds for equitable tolling, *see Singh v. Gonzales*, 491 F.3d 1090, 1096-97 (9th Cir. 2007) (requiring petitioner to act with due diligence to definitively learn of the ineffective assistance after he becomes suspicious of it).

**PETITION FOR REVIEW DENIED.**