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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VICTOR MANUEL RUELAS PRECIADO,</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. 08-72034

Agency No. A096-063-484

MEMORANDUM \*

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

Submitted January 11, 2010 \*\*

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Victor Manuel Ruelas Preciado, a native and citizen of Mexico, petitions pro  
se for review of the decision of the Board of Immigration Appeals denying his

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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).

motion to reopen the underlying denial of his application for cancellation of removal, and alleging changed country conditions and seeking relief under the Convention Against Torture (“CAT”).

We conclude that the BIA did not abuse its discretion in denying the motion to reopen because petitioner’s motion was untimely filed and failed to meet an exception to the time limits on motions to reopen. *See* 8 C.F.R. § 1003.2(c)(2). Petitioner’s claim for protection under CAT failed to present changed country conditions in Mexico that are material to petitioner or his circumstances, and therefore petitioner failed to meet his burden of presenting a prima facie CAT claim to support reopening. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Kamalthas v. INS*, 251 F.3d 1279, 1283 (9th Cir. 2001). In addition, the BIA did not err in concluding that petitioner’s failure to voluntarily depart within the departure period rendered him ineligible for cancellation relief for a period of ten years. *See Barroso v. Gonzales*, 429 F.3d 1195, 1202 (9th Cir. 2005)

**PETITION FOR REVIEW DENIED.**