

JAN 20 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AHMED ZZIZINGA MUYINGO,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71763

Agency No. A070-367-287

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.

Ahmed Zzizinga Muyingo, a native and citizen of Uganda, petitions for review of an order of the Board of Immigration Appeals (“BIA”) denying his second motion to reopen removal proceedings to apply for deferral of removal

* 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).

under the Convention Against Torture. We have jurisdiction under 8 U.S.C.

§ 1252. We review for abuse of discretion the denial of a motion to reopen, *Malty v. Ashcroft*, 381 F.3d 942, 945 (9th Cir. 2004), and we deny the petition for review.

The BIA did not abuse its discretion in denying Muyingo's second motion to reopen because he failed to demonstrate changed circumstances in Uganda to qualify for the regulatory exception to the time and numerical limitations on motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Malty*, 381 F.3d at 945 (9th Cir. 2004) (critical question is whether circumstances have changed sufficiently that a petitioner who previously did not have a legitimate claim now does).

We reject Muyingo's contention that the BIA abused its discretion by failing to consider the evidence submitted with the motion to reopen. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.