

JAN 21 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PARMJEET SINGH KALKAT,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71656

Agency No. A074-395-455

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.

Parmjeet Singh Kalkat, a native and citizen of India, petitions 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 for abuse of

* 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).

discretion the denial of a motion to reopen, *Singh v. Gonzales*, 491 F.3d 1090, 1095 (9th Cir. 2007), and we deny the petition for review.

The BIA acted within its discretion in denying as untimely Kalkat's motion to reopen filed on November 25, 2003, because it was filed more than 90 days after the BIA's final removal order, *see* 8 C.F.R. §1003.2(c)(2), and Kalkat did not show that he acted with the due diligence required for equitable tolling, *see Singh*, 491 F.3d at 1096-97.

PETITION FOR REVIEW DENIED.