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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FRANCISCO DIAZ-GUTIERREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-74580

Agency No. A078-968-161

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Francisco Diaz-Gutierrez, a native and citizen of Honduras, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his

* 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 for administrative closure. Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA's denial of a request for administrative closure. *See Diaz-Covarrubias v. Mukasey*, 551 F.3d 1114, 1120 (9th Cir. 2009).

To the extent that Diaz-Gutierrez's motion could be construed as a motion to reopen, the BIA did not abuse its discretion in denying Diaz-Gutierrez's second motion to reopen as untimely and numerically barred where the motion was filed more than three years after the BIA's final administrative order. *See* 8 C.F.R. § 1003.2(c)(2); *Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004) (BIA denials of motions to reopen are reviewed for abuse of discretion), *amended by* 404 F.3d 1105 (9th Cir. 2005).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.
