

APR 12 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>JAGDEEP SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 07-74123

Agency No. A078-656-346

MEMORANDUM\*

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

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Jagdeep Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his second motion to reopen. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of

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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).

discretion the denial of a motion to reopen, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's motion to reopen as untimely because the motion was filed more than 90 days after the issuance of the BIA's February 9, 2007, order, *see* 8 C.F.R. § 1003.2, and Singh failed to establish his motion warranted tolling of the 90-day filing deadline, *see Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003) (equitable tolling is available to petitioner who is prevented from filing due to deception, fraud or error, and exercises due diligence in discovering such circumstances).

**PETITION FOR REVIEW DENIED.**