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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RENE MANZANARES SALVADOR,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 06-72126

Agency No. A079-523-009

MEMORANDUM *

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

Submitted May 4, 2010**
Pasadena, California

Before: O’SANNLAIN and TALLMAN, Circuit Judges, and LEFKOW, ***
District Judge.

Rene Manzanares Salvador, a native and citizen of Mexico, petitions for
review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Joan H. Lefkow, United States District Judge for the
Northern District of Illinois, sitting by designation.

reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Manzanares Salvador's motion to reopen, because the motion was filed more than 90 days after the BIA's January 31, 2005, order dismissing his underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2) (motions to reopen generally must be filed within 90 days of the administrative decision), and Manzanares Salvador failed to establish grounds for equitable tolling, *see Iturribarria*, 321 F.3d at 897 (equitable tolling available "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence").

To the extent Manzanares Salvador challenges the BIA's January 31, 2005, order dismissing his underlying appeal, we lack jurisdiction because this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.