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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ISAUL LOPEZ LOPEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-70728

Agency No. A073-944-645

MEMORANDUM\*

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

Submitted May 25, 2010\*\*

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Isaul Lopez Lopez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying his motion to reopen deportation proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review

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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).

for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The IJ did not abuse his discretion in denying Lopez Lopez's motion as untimely because it was filed more than ten years after the final administrative order, *see* 8 C.F.R. § 1003.23(b)(4)(iii), and Lopez Lopez failed to establish he acted with the due diligence required for equitable tolling of the filing deadline, *see Iturribarria*, 321 F.3d at 897 (equitable tolling is available to a petitioner who is prevented from filing due to deception, fraud or error, and exercises due diligence in discovering such circumstances); *cf. Ghahremani v. Gonzales*, 498 F.3d 993, 1000 (9th Cir. 2007) (due diligence where petitioner demonstrates "steadfast pursuit" of his case).

**PETITION FOR REVIEW DENIED.**