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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NOT FOR PUBLICATION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>RIGOBERTO EULOGIO ARANGO-GONZALEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
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No. 08-70285

Agency No. A092-177-095

MEMORANDUM*

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

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Rigoberto Eulogio Arango-Gonzalez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reconsider. We have jurisdiction under 8 U.S.C. § 1252.

We review for abuse of discretion the denial of a motion to reconsider and reopen,

* 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).

Mohammed v. Gonzales, 400 F.3d 785, 791 (9th Cir. 2005), and we deny the petition for review.

The BIA acted within its discretion in denying Arango-Gonzalez's motion because the motion failed to identify any error of fact or law in the BIA's May 18, 2007, order. *See* 8 C.F.R. § 1003.2(b)(1).

To the extent the motion sought reopening, the BIA acted within its discretion in denying it as untimely because the motion was filed two years after the June 14, 2005, in absentia order, *see* 8 C.F.R. §§ 1003.2(c)(3), 1003.23(b)(4)(ii), and the evidence submitted with the motion failed to establish Arango-Gonzalez acted with the due diligence required to warrant tolling of the 180-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).

Arango-Gonzalez's remaining contentions are unavailing.

PETITION FOR REVIEW DENIED.