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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>AMRIT SINGH,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-73428

Agency No. A072-763-816

MEMORANDUM*

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

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Amrit Singh, a native and citizen of India, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying Singh's second motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reopen, *see Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's motion to reopen as untimely and numerically barred because it was Singh's second motion to reopen and he filed it over five years after the BIA's final order of removal, *see* 8 C.F.R. § 1003.2(c), and Singh failed to establish changed circumstances in India to qualify for the regulatory exception to the time and number limitations, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Malty v. Ashcroft*, 381 F.3d 942, 945-46 (9th Cir. 2004).

Finally, we reject Singh's contention that the BIA failed to consider evidence because he has not overcome the presumption that the BIA reviewed the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006). Singh's contention that the BIA failed to address his arguments is belied by the agency's order.

PETITION FOR REVIEW DENIED.