

SEP 07 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN CARLOS MARTINEZ-
VILLANUEVA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71341

Agency No. A079-648-399

MEMORANDUM*

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

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Juan Carlos Martinez-Villanueva, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider as untimely. We have jurisdiction under 8 U.S.C. § 1252.

We review for abuse of discretion the denial of a motion to reconsider, *Cano-*

* 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).

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 Martinez-Villanueva's motion to reconsider as untimely because he filed the motion more than 5 months after the BIA issued its final order, *see* 8 C.F.R. § 1003.2(b)(2), and Martinez-Villanueva did not show he acted with the diligence required for equitable tolling, *see Singh v. Gonzales*, 491 F.3d 1090, 1096-97 (9th Cir. 2007).

PETITION FOR REVIEW DENIED.