

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 29 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CLAUDIO JUAREZ-MENDEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-71112

Agency No. A039-807-218

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Claudio Juarez-Mendez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen.

Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Avila-Sanchez v. Mukasey*, 509 F.3d

* 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).

1037, 1039 (9th Cir. 2007), and we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Juarez-Mendez's motion to reopen where he offered no new material evidence in support of the motion, *see* 8 U.S.C. § 1003.2(c)(1), and where Juarez-Mendez departed the United States after relief under former section 212(c), 8 U.S.C. § 1182(c) (repealed 1996), was previously denied by the BIA in the exercise of discretion, *see* 8 C.F.R. § 1003.44(d), (k); *see also Avila-Sanchez*, 509 F.3d at 1040-41 (9th Cir. 2007).

To the extent Juarez-Mendez challenges the BIA's May 28, 1997, order sustaining the government's appeal, we lack jurisdiction because the petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.