

SEP 30 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIKNABER PAWAL, a.k.a. Sikander
Singh,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71537

Agency No. A078-258-049

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.

Siknaber Pawal, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

* 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).

denial of a motion to reopen, *Toufighi v. Mukasey*, 538 F.3d 988, 992 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion by denying Pawal's third motion to reopen as untimely and numerically barred where it was filed over four years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and Pawal failed to establish changed circumstances in India to qualify him for the regulatory exception to the time and numerical limitations, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Malty v. Ashcroft*, 381 F.3d 942, 945-46 (9th Cir. 2004).

Pawal's contentions that the BIA failed to properly consider the evidence and impermissibly deemed the affidavits he submitted not credible are belied by the record.

PETITION FOR REVIEW DENIED.