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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>QIANG WANG,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-74300

Agency No. A079-268-139

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Qiang Wang, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen based on ineffective assistance of counsel. 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, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion by denying Wang's motion to reopen because the motion was filed more than three years after the BIA's December 1, 2004, order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2), and Wang failed to demonstrate that he acted with the due diligence required to warrant equitable tolling, *see Iturribarria*, 321 F.3d at 897.

In light of our disposition, we do not reach Wang's remaining contentions.

PETITION FOR REVIEW DENIED.