

MAR 15 2011

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSE AGUILAR-LOPEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72899

Agency No. A027-581-777

MEMORANDUM*

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

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Jose Aguilar-Lopez, a native and citizen of Mexico, 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. Reviewing 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, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion in denying Aguilar-Lopez's motion to reopen as time- and number-barred because the successive motion was filed more than 17 years after the BIA's March 19, 1991, order dismissing the underlying appeal, *see* 8 C.F.R. § 1003.2(c)(2) (only one motion to reopen permitted and the motion generally must be filed within 90 days of the final order or on or before September 30, 1996, whichever is later), and Aguilar-Lopez failed to establish grounds for equitable tolling, *see Iturribarria*, 321 F.3d at 897 (equitable tolling available "when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence").

Aguilar-Lopez's remaining contentions are unavailing.

PETITION FOR REVIEW DENIED.