

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 22 2011

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

KEYVAN MOBED MEHDIABADI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70281

Agency No. A095-618-039

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, LEAVY, and BYBEE, Circuit Judges.

Keyvan Mobed Mehdiabadi, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review

* 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).

for abuse of discretion the denial of a motion to reopen, *Singh v. Gonzales*, 491 F.3d 1090, 1095 (9th Cir. 2007), and we deny the petition for review.

The BIA acted within its discretion in denying as untimely Mehdiabadi's motion to reopen because it was filed more than two years after the final removal order, *see* 8 C.F.R. § 1003.23(b)(4)(2), and Mehdiabadi did not show that he acted with the due diligence required for equitable tolling of the filing deadline. *See Singh*, 491 F.3d at 1096-97.

Mehdiabadi's remaining contentions are unavailing.

PETITION FOR REVIEW DENIED.