

MAR 24 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NATHA SINGH,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71567

Agency No. A075-304-443

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.

Natha Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") order denying his motion to reopen removal proceedings conducted in

* 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).

absentia. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008), we deny the petition for review.

The agency did not abuse its discretion in denying Singh's motion to reopen because the Notice to Appear showed that it had been personally served on Singh and contained notice of his next scheduled hearing, *see Khan v. Ashcroft*, 374 F.3d 825, 828 (9th Cir. 2004) (notice proper where INS adhered to statutorily imposed procedural requirements), and because the motion was filed more than 10 years after the IJ's May 16, 1997, order and Singh failed to demonstrate grounds for equitable tolling of the filing deadline, *see Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003); 8 C.F.R. § 1003.23(b)(4)(ii).

In light of our disposition, we need not consider Singh's remaining contentions.

PETITION FOR REVIEW DENIED.