

APR 13 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALFONSO QUIROZ-BACA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-73018

Agency No. A075-732-078

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Alfonso Quiroz-Baca, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen proceedings due to ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for 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).

In his opening brief Quiroz-Baca fails to address, and therefore has waived any challenge to, the BIA's determination that his motion to reopen was untimely and he failed to demonstrate the due diligence necessary to obtain equitable tolling. *See Ghahremani v. Gonzales*, 498 F.3d 993, 997-98 (9th Cir. 2007) (issues not raised and argued in a party's opening brief are deemed waived). Because the timeliness issue is dispositive of Quiroz-Baca's motion to reopen, we do not reach his other contentions.

PETITION FOR REVIEW DENIED.