

APR 14 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JULIO ALBERTO CORADO SOTO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 09-71243

Agency No. A070-778-010

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.

Julio Alberto Corado Soto, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Iturribarria v. INS*,

* 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).

321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Corado Soto's motion to reopen as untimely where he filed the motion more than seven years after the final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and he failed to establish the due diligence required for equitable tolling of the filing deadline, *see Iturribarria*, 321 F.3d at 897.

To the extent that it is raised, we lack jurisdiction to review Corado Soto's contention that the BIA should have invoked its sua sponte authority to reopen his proceedings. *See Mejia-Hernandez v. Holder*, No. 07-74277, 2011 WL 240357, at * 3-4 (9th Cir. Jan. 27, 2011).

In light of our disposition, we need not reach Corado Soto's remaining contentions.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.