

APR 22 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OSCAR DANIEL BOLANES-BLANCO,
a.k.a. Oscar Bolanos,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-71836

Agency No. A029-769-354

MEMORANDUM*

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

Submitted April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

Oscar Daniel Bolanes-Blanco, a native and citizen of Nicaragua, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand.

* 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).

The BIA denied Bolanes-Blanco's motion to reopen without the benefit of our decision in *Coyt v. Holder*, 593 F.3d 902 (9th Cir. 2010), in which we concluded that 8 C.F.R. § 1003.2(d) did not apply to cause the withdrawal of a motion to reopen filed by a petitioner who subsequently has been removed from the United States. *See Coyt*, 593 F.3d at 906-07. We remand in light of this intervening case law for the BIA to reconsider Bolanes-Blanco's motion, including, if necessary, whether the 90-day filing limitation should be equitably tolled.

We construe Bolanes-Blanco's letter of January 26, 2009, as a motion to supplement the record. So construed, the motion is denied as moot.

PETITION FOR REVIEW GRANTED; REMANDED.