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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AZIZ AHMED BABUL,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73574

Agency No. A070-925-813

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.

Aziz Ahmed Babul, a native and citizen of Bangladesh, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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).

abuse of discretion the denial of a motion to reopen, *Lin v. Holder*, 588 F.3d 981, 984 (9th Cir. 2009), and we deny the petition for review.

The BIA did not abuse its discretion by denying Babul's motion as untimely because he filed the motion more than two years after the BIA's final order of removal, *see* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed within 90 days of removal order), and failed to establish prima facie eligibility for the relief sought, *see Toufighi v. Mukasey*, 538 F.3d 988, 996 (9th Cir. 2008) (evidence must demonstrate prima facie eligibility for relief in order to reopen proceedings based on changed country conditions). Babul's contentions that the BIA failed to accept the facts in his sworn declaration as true and made an impermissible credibility determination when assessing the evidence submitted with his motion to reopen are belied by the record.

PETITION FOR REVIEW DENIED.