

NOT FOR PUBLICATION

JUN 09 2011

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHARANJIT JASWAL,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-74455

Agency No. A079-417-399

MEMORANDUM*

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

Submitted May 24, 2011**

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

Sharanjit Jaswal, a native and citizen of India, 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. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Jaswal's motion to reopen as untimely, because he filed it nearly four and a half years after the BIA issued its final administrative order, *see* 8 C.F.R. § 1003.2(c)(2), and Jaswal failed to demonstrate changed circumstances in India to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also Toufighi v. Mukasey*, 538 F.3d 988, 996 (9th Cir. 2008) (requiring movant to produce material evidence with motion to reopen that conditions in country of nationality had changed).

We do not address Jaswal's contention that the BIA failed to address his claim under the Convention Against Torture because the denial of his motion to reopen for failure to establish changed country conditions is dispositive.

Finally, we reject Jaswal's contentions that the BIA failed to consider evidence presented with the motion to reopen, failed to adequately explain its reasoning for its decision, and erred by relying on the agency's prior adverse credibility determination, because they are belied by the record.

PETITION FOR REVIEW DENIED.

