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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID ARANDA RODRIGUEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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Nos. 06-74444
06-75524

Agency No. A095-575-895

MEMORANDUM*

On Petitions for Review of Orders of the
Board of Immigration Appeals

Submitted June 15, 2011**

Before: CANBY, O’SCANNLAIN, and FISHER, Circuit Judges.

In these consolidated petitions for review, David Aranda Rodriguez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) orders denying his two motions to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to

* 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).

reopen. *Singh v. Gonzales*, 491 F.3d 1090, 1095 (9th Cir. 2007). In No. 06-74444 we dismiss the petition for review. In No. 06-75524 we deny the petition for review.

The petition for review in No. 06-74444 is untimely, because it was filed more than thirty days after the BIA's decision denying Rodriguez's first motion to reopen. *See* 8 U.S.C. § 1252(b)(1); *see also Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003) (the requirement of a timely petition for review is "mandatory and jurisdictional, and cannot be tolled"). We therefore dismiss that petition for lack of jurisdiction. *See Dela Cruz v. Mukasey*, 532 F.3d 946, 948 (9th Cir. 2008) (*per curiam*).

The BIA acted within its discretion in denying Rodriguez's second motion to reopen as untimely and number barred because it was filed more than one year after the final removal order, *see* 8 C.F.R. § 1003.2(c)(2), and Rodriguez did not show that he acted with the due diligence required for equitable tolling, *see Singh*, 491 F.3d at 1096-97.

In No. 06-74444: PETITION FOR REVIEW DISMISSED.

In No. 06-75524: PETITION FOR REVIEW DENIED.