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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS ALFREDO MATA-FASARDO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71869

Agency No. A070-647-155

MEMORANDUM*

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

Submitted June 15, 2011**

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

Luis Alfredo Mata-Fasardo, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen deportation proceedings held in absentia. We have jurisdiction under 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), and we deny the petition for review.

The BIA did not abuse its discretion in denying Mata-Fasardo's motion to reopen as untimely because the motion was filed more than 13 years after his 1996 deportation order, *see* 8 C.F.R. § 1003.2(c)(2), and Mata-Fasardo did not show that he acted with the due diligence required for equitable tolling of the filing deadline, *see Singh*, 491 F.3d at 1096-97. It follows that the denial of Mata-Fasardo's motion to reopen did not violate due process. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

PETITION FOR REVIEW DENIED.