

FEB 22 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BOSKO LUBO KUSTUDIC,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 10-72784

Agency No. A072-515-133

MEMORANDUM*

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

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Bosko Lubo Kustudic, a native and citizen of the former Yugoslavia, petitions for review of the decision of the Board of Immigration Appeals denying his second motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen,

* 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).

Singh v. INS, 295 F.3d 1037, 1039 (9th Cir. 2002), and de novo questions of law, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review in part, and dismiss in part.

By not raising any arguments concerning the BIA's dispositive determination that his second motion to reopen was untimely and numerically-barred, Kustudic has waived any challenge to that decision. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

We lack jurisdiction to consider Kustudic's contention that the government failed to provide him with a copy of his file during removal proceedings in violation of due process because he failed to raise the claim before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (noting that due process challenges that are procedural in nature must be exhausted). We do not reach Kustudic's remaining contentions.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.