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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HASSAN TASHAKORI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-70096

Agency No. A077-355-228

MEMORANDUM*

HASSAN TASHAKORI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72301

Agency No. A077-355-228

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

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted June 4, 2012**
Pasadena, California

Before: TROTT and THOMAS, Circuit Judges, and SEEBORG, District Judge.***

Hassan Tashakori seeks review of the Board of Immigration Appeals' ("BIA") denial of two motions to reopen removal proceedings. Tashakori, a political opponent of the regime in his native Iran, overstayed his visa, and an administrative law judge ("ALJ") granted withholding of removal from Iran, but denied him asylum because he was determined to be firmly resettled in Germany. The ALJ also denied withholding of removal to, and asylum from, Germany.

Tashakori's first motion purported to submit new evidence of probable persecution in Germany. The BIA did not abuse its discretion by denying the motion on the grounds that it did not present material, previously unavailable evidence. *INS v. Abudu*, 485 U.S. 94, 104-05 (1988).

Tashakori filed a second motion to reopen based on a letter he received from the German consulate notifying him of the loss of his legal residency status. The fact that Tashakori voluntarily allowed his German residency to expire by failing to return does not defeat the prior finding that he is firmly resettled. *Vang v. INS*, 146

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Richard Seeborg, District Judge for the U.S. District Court for Northern California, sitting by designation.

F.3d 1114, 1117 (9th Cir. 1998). Additionally, the BIA correctly determined his motion to be time and number barred. *See* 8 C.F.R. § 1003.2(c)(2).

The petition for review is **DENIED**.