

OCT 15 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SURINDER SINGH,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71033

Agency No. A095-570-354

MEMORANDUM*

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

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Surinder Singh, 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 abuse of discretion the BIA’s denial of a motion to reopen, *Toufighi v. Mukasey*,

* 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).

538 F.3d 988, 992 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's motion to reopen as untimely because the motion was filed over four years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and Singh failed to present material evidence of changed circumstances in India to qualify for the regulatory exception to the time limitation for filing a motion to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Toufighi*, 538 F.3d at 996-97 (underlying adverse credibility determination rendered evidence of changed circumstances immaterial).

We reject Singh's contentions that the BIA failed to fully consider Singh's arguments and evidence or to adequately explain its decision. *See Najmabadi v. Holder*, 597 F.3d 983, 990-91 (9th Cir. 2010).

Finally, we do not consider the agency's adverse credibility determination, or its denial of withholding of removal and protection under the Convention Against Torture, because these issues were decided by the court in *Singh v. Holder*, No. 05-73496, 2009 WL 2132650 (9th Cir. July 17, 2009).

PETITION FOR REVIEW DENIED.