

OCT 29 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AJESHNI LATA SINGH,

Petitioner,

v.

ERIC C. HOLDER, JR., Attorney General,

Respondent.

No. 08-71289

Agency No. A095-398-289

MEMORANDUM*

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

Submitted October 19, 2012**
San Francisco, California

Before: FISHER, TALLMAN and CALLAHAN, Circuit Judges.

Ajeshni Lata Singh petitions for review of the decision of the Board of Immigration Appeals (BIA) denying her motion to reopen. Because the motion to reopen was untimely and the BIA did not abuse its discretion in concluding that Singh was not entitled to equitable tolling, we deny the petition.

*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 does not warrant equitable tolling because she was not diligent in discovering or addressing the alleged ineffective assistance of her former counsel. She was notified twice that her lawyer had been suspended from practicing law before the BIA, but she elected to continue relying on him. *See Singh v. Holder*, 658 F.3d 879, 884 (9th Cir. 2011) (due diligence required); *Singh v. Gonzales*, 491 F.3d 1090, 1093 (9th Cir. 2007) (holding where an alien has reason to be suspicious of the quality of her counsel's representation and does not investigate, she has not acted with due diligence).

Even if Singh's motion to reopen were timely, she failed to show that she had been prejudiced by her attorney's alleged ineffective assistance of counsel. Accordingly, her motion to reopen is denied.

PETITION FOR REVIEW DENIED.