

NOV 16 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DOMINGO ROGELIO AYALA-ORTIZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-71698

Agency No. A028-964-747

MEMORANDUM*

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

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Domingo Rogelio Ayala-Ortiz, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's denial of his motion to reopen deportation proceedings based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C.

* 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).

§ 1252. We review for abuse of discretion the denial of a motion to reopen. *Avagyan v. Holder*, 646 F.3d 672, 674 (9th Cir. 2011). We deny the petition for review.

The agency did not abuse its discretion in denying Ayala-Ortiz's motion to reopen as untimely where he filed the motion twenty years after the March 14, 1990, final order of deportation, and fourteen years after the September 30, 1996, statutory motions deadline, *see* 8 C.F.R. § 1003.2(c)(2), and Ayala-Ortiz failed to show the due diligence required for equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 679.

In light of our disposition, we do not reach Ayala-Ortiz's contention regarding the BIA's interpretation of 8 C.F.R. § 1003.3(e). Ayala-Ortiz's remaining contentions are unavailing.

PETITION FOR REVIEW DENIED.