

JAN 16 2013

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SOK POR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73173

Agency No. A027-746-307

MEMORANDUM*

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

Submitted January 15, 2013**

Before: SILVERMAN, BEA, and NGUYEN, Circuit Judges.

Sok Por, a native and citizen of Cambodia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We

* 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).

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

The BIA did not abuse its discretion in denying Por's motion to reopen as untimely because the motion was filed more than eight years after the BIA's final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and Por failed to establish the due diligence required for equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 678-80 (equitable tolling is available to a petitioner who establishes that he suffered from deception, fraud or error, and exercised due diligence in discovering such circumstances).

In light of our disposition, we need not reach Por's remaining contentions.

PETITION FOR REVIEW DENIED.