

SEP 30 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GILBERTO G. ROSSATY, a.k.a. Gilberto  
Rossatti Mendez,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-71903

Agency No. A072-523-182

MEMORANDUM\*

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

Submitted September 24, 2013\*\*

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Gilberto G. Rossaty, a native and citizen of Guatemala, petitions pro se for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C.

§ 1252. Reviewing for abuse of discretion the BIA’s denial of a motion to reopen,

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\* 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).

*He v. Gonzales*, 501 F.3d 1128, 1130 (9th Cir. 2007), we deny the petition for review.

The BIA did not abuse its discretion by denying Rossaty's motion to reopen as untimely and number barred, where Rossaty filed his motion approximately four years after his order of removal became administratively final, had filed at least seven prior motions to reopen, and did not demonstrate the applicability of any exception to the time and numerical limitations on motions to reopen. *See* 8 U.S.C. § 1229a(c)(7)(A), (C)(I); 8 C.F.R. § 1003.2(c)(2).

We decline to treat the Attorney General's invitation to strike Rossaty's opening brief as a motion to strike. *See United States v. Rowe*, 96 F.3d 1294, 1298 n.2 (9th Cir. 1996).

**PETITION FOR REVIEW DENIED.**