

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 07 2014

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

HUGO ANTONIO MENENDEZ-ORELLANA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71040

Agency No. A042-485-045

MEMORANDUM*

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

Submitted February 4, 2014**
Pasadena, California

Before: SCHROEDER and CLIFTON, Circuit Judges, and TUNHEIM, District
Judge.***

Hugo Antonio Menendez-Orellana, a native and citizen of El Salvador,
petitions for review of the Board of Immigration Appeals' (BIA) order dismissing

* 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).

*** The Honorable John R. Tunheim, District Judge for the U.S. District
Court for the District of Minnesota, sitting by designation.

his appeal from an immigration judge's denial of his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252(a)(1). We review for abuse of discretion the denial of a motion to reopen, *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1187 (9th Cir. 2001) (en banc), and we deny the petition for review.

The BIA did not abuse its discretion in denying Menendez-Orellana's motion to reopen because the motion was filed nearly nine years after his final removal order, *see* 8 C.F.R. § 1003.23(b)(1), and Menendez-Orellana failed to establish that he was unable, "through no fault of his own and despite due diligence," to discover the grounds for his motion to reopen, *Socop-Gonzalez*, 272 F.3d at 1184, 1193. Menendez-Orellana is therefore not entitled to equitable tolling of the filing deadline.

PETITION DENIED.