

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 28 2014

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

BAHADAR RAM LAKHA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 13-70009

Agency No. A029-904-467

MEMORANDUM*

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

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Bahadar Ram Lakha, a native and citizen of India, petitions for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Avagyan v. Holder*,

* 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).

646 F.3d 672, 674 (9th Cir. 2011). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion by denying as untimely Lakha's motion to reopen based on ineffective assistance of counsel by his first former attorney because he filed the motion nearly three years after issuance of his final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and failed to demonstrate the due diligence necessary to warrant equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 680 (holding that the tolling period ends “when the alien obtains a complete record of his immigration proceedings and is able to review that information with competent counsel”).

We lack jurisdiction to consider Lakha's unexhausted claims of ineffective assistance of counsel by his second and third former attorneys and contentions regarding his lack of motive to delay filing his motion to reopen at an earlier time. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.