

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 17 2014

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

SINGH SARABJEET, a.k.a. Sarabjeet
Singh,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-72991

Agency No. A078-364-891

MEMORANDUM*

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

Submitted June 12, 2014**

Before: McKEOWN, WARDLAW, and M. SMITH, Circuit Judge.

Singh Sarabjeet, 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 Sarabjeet's motion to reopen based on ineffective assistance of counsel because he filed his motion to reopen more than eight 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 679.

In light of this disposition, we need not reach Sarabjeet's nondispositive contentions regarding his former attorney's ineffective assistance and his eligibility for adjustment of status. *See Simeonov v. Ashcroft*, 371 F.3d 532, 538 (9th Cir. 2004) ("As a general rule courts . . . are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

To the extent that Sarabjeet now alleges that a second, unnamed former attorney gave him erroneous legal advice, we lack jurisdiction to consider this unexhausted claim. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) ("We lack jurisdiction to review legal claims not presented in an alien's administrative proceedings before the BIA.").

PETITION FOR REVIEW DENIED in part; DISMISSED in part.