

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

NOV 21 2014

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

KEVIN GATHERU MBUGUA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-72084

Agency No. A078-664-601

MEMORANDUM\*

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

Submitted November 19, 2014\*\*  
San Francisco, California

Before: NOONAN, FERNANDEZ, and IKUTA, Circuit Judges.

Kevin Gatheru Mbugua, a native and citizen of Kenya, petitions for review of the Board of Immigration Appeals' (BIA) denial of his motion to reopen. We have jurisdiction under 8 U.S.C. § 1252(a), and deny the petition for review.

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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).

The BIA correctly determined that Mbugua did not meet his burden of submitting evidence showing that country conditions in Kenya had changed in a way that would establish Mbugua's prima facie eligibility for relief from removal. As the BIA stated, the record lacks any evidence supporting Mbugua's claim that his father was killed for political reasons. The BIA's determination that tribal violence in Kenya involving the Kikuyu tribe had ended at the time Mbugua filed his motion is also supported by substantial evidence. Because Mbugua failed to show changed country conditions, his motion to reopen did not qualify for an exception from the ninety-day filing deadline. *See* 8 U.S.C. § 1229a(c)(7)(C)(i)–(ii); 8 C.F.R. § 1003.2(c)(2)–(3). Accordingly, the BIA did not err in denying Mbugua's motion to reopen as untimely.

**PETITION DENIED.**