

FEB 26 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANKLIN CHUKWUMA NWAGBO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-74193

Agency No. A040-079-914

MEMORANDUM*

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

Submitted February 17, 2015**

Before: O'SCANNLAIN, LEAVY, and FERNANDEZ, Circuit Judges.

Franklin Chukwuma Nwagbo, a native and citizen of Nigeria, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings and to reissue its previous decision. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

* 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).

denial of a motion to reopen and reissue, *Hernandez-Valasquez v. Holder*, 611 F.3d 1073, 1077 (9th Cir. 2010), and we deny the petition for review.

The BIA did not abuse its discretion in denying Nwagbo's motion as untimely, where the motion was filed more than eleven years after his removal order became final, *see* 8 C.F.R. § 1003.2(c)(2), and Nwagbo failed to show the due diligence required for equitable tolling of the filing deadline, *see Avagyan v. Holder*, 646 F.3d 672, 679 (9th Cir. 2011) (equitable tolling is available to a petitioner who is prevented from filing because of deception, fraud or error, and exercised due diligence in discovering such circumstances).

In light of this disposition, we do not reach Nwagbo's remaining contentions.

PETITION FOR REVIEW DENIED.