

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUN 22 2016

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

INDERJIT SINGH,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 12-73921

Agency No. A089-679-669

MEMORANDUM*

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

Submitted June 14, 2016**

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

Inderjit Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We review for abuse of discretion the denial of a motion to reopen. *Toufighi v. Mukasey*, 538 F.3d 988, 992 (9th Cir. 2008). We deny the petition for

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

review.

We do not consider Singh's contentions regarding the agency's underlying decisions which were previously reviewed by this court in *Singh v. Holder*, 535 F. App'x 551 (9th Cir. July 31, 2013).

The BIA did not abuse its discretion in denying Singh's motion to reopen because it was untimely, *see* 8 C.F.R. §1003.2(c)(2), Singh failed to establish the evidence predating his July 2009 immigration hearing was not available and could not have been discovered or presented at his hearing, *see* 8 C.F.R. §1003.2(c)(1), and Singh failed to establish his motion otherwise fell within the regulatory exception to the time limitation for filing a motion to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi v. Holder*, 597 F.3d 983, 988-89 (9th Cir. 2010) (evidence must be "qualitatively different" to warrant reopening). We reject Singh's contention that the BIA ignored his evidence or addressed it improperly. *See Najmabadi*, 597 F.3d at 990 (the BIA adequately considered the evidence and sufficiently announced its decision).

PETITION FOR REVIEW DENIED.