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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VARDAN FELIKSOVICH GRIGORIAN,
AKA Vardan Grigorian,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 10-72757

Agency No. A070-176-182

MEMORANDUM*

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

Submitted September 27, 2016**

Before: TASHIMA, SILVERMAN and M. SMITH, Circuit Judges.

Vardan Feliksovich Grigorian, a native and citizen of Armenia, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to

* 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).

reopen, *Avagyan v. Holder*, 646 F.3d 672, 678 (9th Cir. 2011), and we deny the petition for review.

The BIA did not abuse its discretion in denying Grigorian's motion to reopen where he filed the motion five years after the BIA issued its final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and failed to demonstrate that he exercised the due diligence required to obtain equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 679.

We do not consider documentation attached to the opening brief that was not part of the administrative record below. *See* 8 U.S.C. § 1252(b)(4)(A).

In light of our disposition, we do not address Grigorian's other contentions.

PETITION FOR REVIEW DENIED.