

DEC 19 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CELIA ELICINIA BARRIENTOS,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 15-70016

Agency No. A070-639-600

MEMORANDUM*

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

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Celia Elicinia Barrientos, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's order denying her motion to reopen deportation proceedings. 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 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).

denial of a motion to reopen. *Avagyan v. Holder*, 646 F.3d 672, 674 (9th Cir. 2011). We deny the petition for review.

The agency did not abuse its discretion in denying Barrientos' motion to reopen as untimely, where Barrientos filed the motion over sixteen years after her final order of deportation, *see* 8 C.F.R. § 1003.23(b)(1), and she has not demonstrated the due diligence necessary to warrant equitable tolling of the filing deadline, *see Avagyan* at 679 (equitable tolling is available to an alien who is prevented from filing a motion to reopen due to deception, fraud, or error, as long as the alien exercises due diligence in discovering such circumstances).

In light of our disposition, we do not reach Barrientos' remaining contentions.

PETITION FOR REVIEW DENIED.