

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 19 2016

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

RUZANNA KARAPETYAN,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-74051

Agency No. A098-534-677

MEMORANDUM\*

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

Submitted April 13, 2016\*\*

Before: FARRIS, TALLMAN, and BYBEE, Circuit Judges.

Ruzanna Karapetyan, a native of the former Soviet Union and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252, and review for abuse of discretion the denial of a motion to reopen.

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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).

*Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion by denying as untimely Karapetyan's motion to reopen based on the alleged ineffective assistance of her prior counsel, where she filed the motion over five years after her final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and failed to show she exercised the due diligence necessary to discover her attorney's ineffectiveness and, consequently, warrant equitable tolling of the filing deadline, *see Avagyan v. Holder*, 646 F.3d 672, 679 (9th Cir. 2011) (diligence involves whether a reasonable person "would suspect the specific fraud" and whether petitioner took "reasonable steps to investigate [any] suspected fraud").

Karapetyan's contention that the BIA, in noting the immigration judge's adverse credibility determination, made its own adverse credibility determination in denying the motion is not supported by the record. *Cf. Ghadessi v. INS*, 797 F.2d 804, 806 (9th Cir. 1986).

In light of this disposition, we need not reach Karapetyan's due process contention.

The government's motion to lift the temporary abeyance is denied as moot,

because it has expired.

**PETITION FOR REVIEW DENIED.**