

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 13 2020

FOR THE NINTH CIRCUIT

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

CARLOS HUMBERTO DEPAZ FRANCO,

No. 18-72024

Petitioner,

Agency No. A071-585-624

v.

MEMORANDUM*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Carlos Humberto Depaz Franco, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings 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 reopen. *Martinez-Hernandez v. Holder*, 778 F.3d 1086, 1088

* 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).

(9th Cir. 2015). We deny the petition for review.

The BIA did not abuse its discretion in denying Depaz Franco's untimely motion to reopen for failing to demonstrate he acted with the due diligence required for equitable tolling. *See* 8 U.S.C. § 1229a(c)(7)(C)(i); *see also Avagyan v. Holder*, 646 F.3d 672, 679 (9th Cir. 2011) (due diligence requires that petitioner took reasonable steps to investigate prior counsel's suspected error, or, if petitioner was ignorant of counsel's shortcomings, made reasonable efforts to pursue relief).

PETITION FOR REVIEW DENIED.