

DEC 13 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SALVADOR URIBE-ESPINOSA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72993

Agency No. A095-294-778

MEMORANDUM*

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

Submitted December 6, 2010**

Before: GOODWIN, RYMER, and GRABER, Circuit Judges.

Salvador Uribe–Espinosa, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reopen removal proceedings and to reconsider its prior order. 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 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).

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

The BIA acted within its discretion in denying Uribe–Espinosa’s motion as untimely because it was filed nearly three years after the BIA’s May 3, 2005, final removal order, *see* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed within 90 days of the entry of a final administrative order of removal); 8 C.F.R. § 1003.2(b)(2) (motion to reconsider must be filed within 30 days of the entry of a final administrative order of removal), and Uribe–Espinosa does not contend he is entitled to equitable tolling, *see Iturribarria v. INS*, 321 F.3d 889, 897 (9th Cir. 2003) (deadline can be equitably tolled “when a petitioner is prevented from filing because of deception, fraud, or error, as long as the petitioner acts with due diligence”).

PETITION FOR REVIEW DENIED.