

SEP 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FLORENCIO SALINAS-LOPEZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-75126

Agency No. A090-937-249

MEMORANDUM*

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

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Florencio Salinas-Lopez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen deportation proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review

* 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).

for abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Salinas-Lopez's motion to reopen as untimely because it was filed more than five years after the BIA's final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and Salinas-Lopez failed to establish grounds for equitable tolling, *see Socop-Gonzalez v. INS*, 272 F.3d 1176, 1193 (9th Cir. 2001) (en banc) (equitable tolling applies where "despite all due diligence, [the party invoking equitable tolling] is unable to obtain vital information bearing on the existence of the claim") (internal quotation and citation omitted). We therefore do not reach Salinas-Lopez's contentions related to his former counsel's alleged ineffective assistance.

PETITION FOR REVIEW DENIED.