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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HARDIP SINGH, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 10-73110 Agency No. A074-785-455 MEMORANDUM[*]

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

Submitted November 13, 2012[**]

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Hardip Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

[*] 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).

discretion the denial of a motion to reopen, *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's motion to reopen as untimely where it was filed more than five years after the BIA's final order, *see* 8 C.F.R. § 1003.2(c)(2), and Singh failed to present material evidence of changed circumstances to qualify for the regulatory exception to the time limit for filing motions to reopen, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *Najmabadi*, 597 F.3d at 987 (new evidence must be qualitatively different from the evidence presented at the prior proceeding to be material).

PETITION FOR REVIEW DENIED.