

DEC 26 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERONIMO ALVAREZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 12-74070

Agency No. A029-138-490

MEMORANDUM*

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

December 17, 2013**

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

Geronimo Alvarez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s denial of his motion to reopen deportation proceedings to pursue relief under the Nicaraguan and Central American Relief Act of 1997

* 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).

(“NACARA”). We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Avagyan v. Holder*, 646 F.3d 672, 674 (9th Cir. 2011), and we deny the petition for review.

The BIA did not abuse its discretion in denying Alvarez’s motion to reopen as untimely where the motion was filed more than eleven years after the relevant deadline, *see* 8 C.F.R. § 1003.43(e)(1) (a motion to reopen to pursue special rule suspension of deportation under NACARA must be filed no later than September 11, 1998), and Alvarez failed to demonstrate the due diligence required to obtain equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 679 (equitable tolling is available to a petitioner who is prevented from filing because of deception, fraud or error, and exercised due diligence in discovering such circumstances).

PETITION FOR REVIEW DENIED.