

MAR 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEKSANDR KOVTOUN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70566

Agency No. A075-499-355

MEMORANDUM*

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

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Aleksandr Kovtoun, a native and citizen of Moldova, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen.

We have jurisdiction under 8 U.S.C. § 1252. We review for an abuse of discretion,

* 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).

Toufighi v. Mukasey, 538 F.3d 988, 992 (9th Cir. 2008), and we deny the petition for review.

The BIA did not abuse its discretion in denying Kovtoun's motion to reopen because it considered the evidence submitted and acted within its broad discretion in determining Kovtoun did not demonstrate prima facie eligibility for the relief sought. *See INS v. Abudu*, 485 U.S. 94, 104 (1988) (the BIA may deny a motion to reopen for failure to establish a prima facie case for the underlying relief sought).

PETITION FOR REVIEW DENIED.