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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>JAIME AROLDO REGALADO MONTEPEQUE,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>LORETTA E. LYNCH, Attorney General,</p> <p style="text-align: center;">Respondent.</p> |
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No. 13-73281

Agency No. A072-526-691

MEMORANDUM*

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

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Jaime Aroldo Regalado Montepeque, 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 decision denying his motion to reopen removal proceedings conducted in absentia. Our jurisdiction is governed

* 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).

by 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). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying the motion to reopen as untimely where Regalado Montepeque does not dispute proper notice of the hearing, filed his motion to reopen more than 14 years after his final order of removal, *see* 8 U.S.C. § 1229a(b)(5)(C), and failed to establish that he acted with the due diligence required for equitable tolling of the filing deadline, *see Avagyan*, 646 F.3d at 679.

We lack jurisdiction to review Regalado Montepeque's contention regarding the expiration of his order of removal because he did not exhaust this claim before the BIA. *See* 8 U.S.C. § 1252(d)(1); *Sola v. Holder*, 720 F.3d 1134, 1135 (9th Cir. 2013) (per curiam).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.