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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEEP KAPOOR, Petitioner, v. ERIC H. HOLDER, Jr., Attorney General, Respondent.	No. 06-75474 Agency No. A077-433-915 MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Deep Kapoor, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his second motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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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 in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Kapoor's second motion to reopen as untimely and numerically barred where Kapoor filed the motion nearly three years after the BIA's decision, and he failed to demonstrate changed circumstances in India to qualify for the regulatory exception to the time and numerical limits for filing motions to reopen. *See* 8 C.F.R. §§ 1003.2(c)(2), 1003.2(c)(3)(ii).

To the extent Kapoor challenges the BIA's December 11, 2003 order dismissing his direct appeal from the immigration judge's decision, we lack jurisdiction because he did not timely petition for review of that order. *See* 8 U.S.C. § 1252(b)(1); *see also Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.