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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SILVESTRE CAMARGO DIAZ,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-73423

Agency No. A096-064-451

MEMORANDUM*

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

Submitted July 29, 2009**

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

Silvestre Camargo Diaz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his second motion to reopen. We have jurisdiction pursuant to 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 finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

discretion the BIA's denial of a motion to reopen, *Ordonez v. INS*, 345 F.3d 777, 782 (9th Cir. 2003), and review de novo claims of constitutional violations in immigration proceedings, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We deny the petition for review.

The BIA did not abuse its discretion in concluding Carmargo Diaz's second motion to reopen was numerically barred, *see* 8 C.F.R. § 1003.2(c)(2), and that it did not qualify for any of the exceptions provided at 8 C.F.R. § 1003.2(c)(3). It follows that Carmargo Diaz has not established a due process violation. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to succeed on a due process claim).

PETITION FOR REVIEW DENIED.