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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CARLOS ALBERTO BONILLA-MONTANO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 06-75842

Agency No. A077-991-841

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.

Carlos Alberto Bonilla-Montano, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen based on ineffective assistance of counsel. Our

* 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).

jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo due process claims. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Bonilla-Montano's motion because he failed to establish that the alleged ineffective assistance may have affected the outcome of his proceedings. *See id.* at 899-900. Bonilla-Montano did not provide any evidence related to the strength of his cancellation of removal claim, *see id.* at 902 (concluding there was no prejudice where evidence did not establish the requisite level of hardship), nor did he show how he was eligible for a section 212(h) waiver given his controlled substance conviction, *see* 8 U.S.C. § 1182(h).

To the extent that Bonilla-Montano challenges the BIA's November 29, 2005, order, this petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.