

January 18, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60366
Summary Calendar

MAPKU KOL,

Petitioner,

versus

ALBERTO R. GONZALES, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79 048 062

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Mapku Kol, also known as Kole Marku and Kol Marku, petitions for review of an order of the Board of Immigration Appeals (BIA) that affirmed the immigration judge's (IJ's) determination that his motion to reopen his deportation proceedings should be denied as untimely. Kol argues that he is entitled to equitable tolling based on the ineffective assistance of Richard Kulics, his former attorney. We review the denial of a motion to reopen for abuse of discretion. Lara v. Trominski, 216 F.3d 487, 496 (5th Cir. 2000).

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We have not issued a published opinion squarely adopting the doctrine of equitable tolling in the context of a motion to reopen immigration proceedings. Nevertheless, even if we assume without deciding that such tolling could be available to Kol, he has not shown that he is entitled to it. The record reflects that Kol failed to exercise due diligence in pursuing his claim of ineffective assistance of counsel by delaying over two years in raising the issue. See Cavazos v. Gonzales, 181 Fed. Appx. 453, 460-61 (5th Cir. 2006); Goonsuwan v. Ashcroft, 252 F.3d 383, 385 n.2 (5th Cir. 2001). Accordingly, Kol's petition for review is DENIED.