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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KHITAM MOHAMMED ABU SHANDI,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 05-76708

Agency No. A029-228-876

MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Khitam Mohammed Abu Shandi petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen based on adjustment of status. We have jurisdiction pursuant to 8 U.S.C. § 1252. We

* 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).

review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We grant the petition for review, and remand for further proceedings.

The BIA abused its discretion in denying Abu Shandi's motion to reopen to adjust status solely on the basis of the government's objection. *See Ahmed v. Mukasey*, 548 F.3d 768, 772 (9th Cir. 2008) (BIA may not deny a motion to reopen for adjustment of status based solely on the fact of the government's objection).

PETITION FOR REVIEW GRANTED; REMANDED.