

OCT 05 2009

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MOHAMMED KAFIULLAH KHAN; et. al,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 06-74733

Agency Nos. A097-548-943
A097-548-944
A097-548-945
A097-548-946
A097-548-947

MEMORANDUM*

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

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Mohammed Kafiullah Khan, Feroza Kahn, and their children, natives and
citizens of Pakistan, petition for review of the Board of Immigration Appeals’
(“BIA”) order dismissing their appeal from an immigration judge’s (“IJ”) decision

* 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).

denying their motion to reopen and reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denials of motions to reopen and reconsider. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency's decision not to exercise its sua sponte authority to reopen petitioners' proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

The BIA did not abuse its discretion in affirming the IJ's denial of petitioners' motion to reconsider as untimely because it was filed more than 30 days after the IJ's October 29, 2004, order. *See* 8 C.F.R. § 1003.23(b)(1).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.