

MAY 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO RIOS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-72303

Agency No. A074-438-052

MEMORANDUM*

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

Submitted May 15, 2012 **

Before: CANBY, GRABER and M. SMITH, Circuit Judges.

Francisco Rios, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We review for abuse of discretion the denial of a motion to reconsider. *See Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004), *amended by* 404 F.3d 1105 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA acted within its discretion in denying Rios' motion to reconsider because the motion failed to identify any error of fact or law in the BIA's prior decision affirming the immigration judge's ("IJ") order denying Rios' application for asylum, withholding of removal, and for relief under the Convention Against Torture Act and under the Nicaragua and Central America Relief Act. *See* 8 C.F.R. § 1003.2(b)(1); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n. 2 (9th Cir. 2001) (en banc).

We lack jurisdiction to review the BIA's underlying March 24, 2011 order, dismissing Rios' appeal from the IJ's decision, because the petition for review is not timely as to that order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.