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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE LUIS ALBERTO-CANACA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 10-70968

Agency No. A097-315-383

MEMORANDUM*

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

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Jose Luis Alberto-Canaca, a native and citizen of Honduras and a resident of El Salvador, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying his motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for an abuse of discretion the BIA’s denial of a

* 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).

motion to reconsider and review de novo claims of due process violations. *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Alberto-Canaca's motion to reconsider because the motion failed to identify any error of fact or law in the BIA's prior order. *See* 8 C.F.R. § 1003.2(b)(1).

We lack jurisdiction to review any challenge Alberto-Canaca makes to the BIA's underlying order dismissing his appeal from the immigration judge's decision, because this petition is not timely as to that order. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1258 (9th Cir. 1996) (BIA's underlying order is final when issued, irrespective of the filing of a reconsideration motion, and petitioner must seek judicial review of the order within the specified period).

Finally, in light of the foregoing, Alberto-Canaca's contention that the agency violated his due process rights is unavailing.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.