

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 15 2017

FOR THE NINTH CIRCUIT

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

BENIGNO SANDOVAL-MADRIGAL,  
AKA Jesus Osequerra,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney  
General,

Respondent.

No. 13-74107

Agency No. A079-630-352

MEMORANDUM\*

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

Submitted August 9, 2017\*\*

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Benigno Sandoval-Madrigal, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal, which was treated as a motion to reconsider. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reconsider.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

*Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Sandoval-Madrigal's motion to reconsider the agency's denial of adjustment of status as untimely, where it was filed more than 30 days after the BIA's 2011 order became final. *See* 8 U.S.C. § 1229a(c)(6)(B) (motion to reconsider must be filed within 30 days of entry of a final order of removal); 8 U.S.C. § 1101(a)(47)(B)(i) (an order of removal becomes final when the BIA affirms the order); *Pinto v. Holder*, 648 F.3d 976, 986 (9th Cir. 2011) (a BIA order denying relief from removal, but remanding solely for voluntary departure proceedings is a final order of removal).

**PETITION FOR REVIEW DENIED.**