

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2023

FOR THE NINTH CIRCUIT

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

JASPAL SINGH SANDHU,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 21-237

Agency No.
A077-839-921

MEMORANDUM*

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

Submitted June 26, 2023**

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

Jaspal Singh Sandhu, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Najmabadi v.*

* 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).

Holder, 597 F.3d 983, 986 (9th Cir. 2010). We deny in part and dismiss in part the petition for review.

Because Sandhu does not challenge the BIA’s grounds for denying his motion to reopen as untimely and for failure to establish a basis for equitable tolling, we do not address them. *See Lopez-Vasquez v. Holder*, 706 F.3d 1072, 1079-80 (9th Cir. 2013).

We lack jurisdiction to consider any challenge to the BIA’s August 25, 2017, order affirming the immigration judge’s (“IJ”) decision terminating Sandhu’s asylee status because this petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *see also Singh v. Lynch*, 835 F.3d 880, 882 (9th Cir. 2016) (“A petition for review must be filed not later than 30 days after the date of the final order of removal. This deadline is mandatory and jurisdictional.” (citation and internal quotation marks omitted)).

Sandhu’s contention that the IJ erred by failing to advise him of eligibility for relief is not properly before the court because he failed to raise it before the BIA. *See* 8 U.S.C. § 1252(d)(1) (exhaustion of administrative remedies required); *see also Santos-Zacaria v. Garland*, 143 S. Ct. 1103, 1113-14 (2023) (section 1252(d)(1) is a non-jurisdictional claim-processing rule).

The temporary stay of removal remains in place until the mandate issues.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.