

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 2 2020

FOR THE NINTH CIRCUIT

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

SERGIO TORRES SALINAS,

No. 14-70211

Petitioner,

Agency No. A089-745-746

v.

MEMORANDUM\*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted September 4, 2020\*\*  
Pasadena, California

Before: GOULD and IKUTA, Circuit Judges, and EZRA, \*\*\* District Judge.

Sergio Torres Salinas (“Petitioner”) is a native and citizen of Mexico. He petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing his appeal from the decision of an Immigration Judge (“IJ”) denying his

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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).

\*\*\* The Honorable David A. Ezra, United States District Judge for the District of Hawaii, sitting by designation.

application for asylum, withholding of removal, and related relief under the Convention Against Torture (“CAT”) and for cancellation of removal. Because the petition for review was filed more than thirty (30) days after the BIA’s decision, we dismiss the petition for lack of jurisdiction.

Under Rule 25 of the Federal Rules of Appellate Procedure, a filing is not timely unless the papers are filed with the clerk within the time allowed, which is thirty days after the date of the final order according to 8 U.S.C. § 1252(b)(1). We strictly construe this rule. *See, e.g., Magtanong v. Gonzales*, 494 F.3d 1190, 1191 (9th Cir. 2007) (per curiam). The court’s electronic filing system reflects that the attempts made by Petitioner’s counsel to electronically file this petition for review on January 18, 2014, and January 21, 2014, were unsuccessful as counsel failed to complete the electronic filing process. As noted by the *Sheviakov* court, “a petition for review is deemed filed not when mailed, but only when the clerk ‘receives’ it.” *Sheviakov v. I.N.S.*, 237 F.3d 1144, 1147 (9th Cir. 2001). Here, we did not receive the petition until January 22, 2014, and thus, we do not have jurisdiction over the petition for review.

**PETITION DISMISSED FOR LACK OF JURISDICTION.<sup>1</sup>**

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<sup>1</sup> After this case was submitted, Petitioner filed a motion to refer the case to mediation or stay proceedings. (ECF No. 81.) The motion does not make a sufficient showing to stay proceedings. Therefore, the request for a stay is **DENIED** and the request to refer the case to mediation is deemed **MOOT**.