

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 20 2018

FOR THE NINTH CIRCUIT

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

RAJWINDER SINGH,

No. 18-70064

Petitioner,

Agency No. A099-857-409

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted September 12, 2018**

Before: LEAVY, HAWKINS, and TALLMAN, Circuit Judges.

Rajwinder Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his 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 or reopen, *Mohammed v. Gonzales*, 400 F.3d 785,

* 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).

791 (9th Cir. 2005), and we deny the petition for review.

The BIA did not abuse its discretion in denying Singh's motion to reconsider where Singh failed to identify any error of fact or law in the BIA's prior order. *See* 8 C.F.R. § 1003.2(b)(1) (a motion to reconsider must specify errors of fact or law in a prior decision); *Ma v. Ashcroft*, 361 F.3d 553, 558 (9th Cir. 2004) (discussing the standard for a motion to reconsider).

In construing Singh's motion as a motion to reopen, the BIA did not abuse its discretion in denying it where Singh failed to demonstrate that the new evidence he submitted would likely have changed the outcome of his case. *See Shin v. Mukasey*, 547 F.3d 1019, 1025 (9th Cir. 2008) ("Aliens who seek to remand or reopen proceedings to pursue relief bear a 'heavy burden' of proving that, if proceedings were reopened, the new evidence would likely change the result in the case." (citation omitted)).

We reject Singh's contention that the BIA failed to construe his motion to reconsider as a motion to reopen.

PETITION FOR REVIEW DENIED.