

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 15 2023

FOR THE NINTH CIRCUIT

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

ISMAEL RIVAS COTAS, AKA Ismael
Rivas Cota,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 20-70219

Agency No. A205-272-235

MEMORANDUM*

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

Submitted February 13, 2023**
San Francisco, California

Before: MILLER, SANCHEZ, and MENDOZA, Circuit Judges.

Ismael Rivas Cotas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") decision, affirming the Immigration Judge's ("IJ") denial of his motion for reconsideration. We have jurisdiction under

* 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).

8 U.S.C. § 1252, and we deny the petition.

Petitioner contends the BIA erred in denying sua sponte reconsideration based on our decision in *Lorenzo v. Sessions*, 902 F.3d 930 (9th Cir. 2018), *withdrawn on denial of reh'g sub nom. Lorenzo v. Whitaker*, 913 F.3d 930 (9th Cir. 2019), *and superseded sub nom. Lorenzo v. Whitaker*, 752 F. App'x 482 (9th Cir. 2019). Because *Lorenzo v. Sessions* was withdrawn and superseded by a non-precedential memorandum disposition, the BIA did not err in concluding that petitioner's motion for reconsideration is not supported by binding circuit precedent. *See Grimm v. City of Portland*, 971 F.3d 1060, 1067 (9th Cir. 2020).

Moreover, *United States v. Rodriguez-Gamboa*, 972 F.3d 1148 (9th Cir. 2020), forecloses petitioner's claim. *Rodriguez-Gamboa* held "as a matter of law, that California's definition of methamphetamine is a categorical match to the definition under the federal [Controlled Substances Act]." *Id.* at 1154 n.5. The BIA did not abuse its discretion in denying the petitioner's motion for reconsideration. *See Ayala v. Sessions*, 855 F.3d 1012, 1020 (9th Cir. 2017).

PETITION DENIED.