

OCT 25 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TSISANA MIKIA,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-75123

Agency No. A075-709-639

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Tsisana Mikia, a native and citizen of Georgia, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

abuse of discretion the denial of a motion to reopen, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Mikia's motion to reopen where Mikia failed to demonstrate prejudice. *See Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 826 (9th Cir. 2003) (to prevail on ineffective assistance of counsel claim, alien must demonstrate prejudice); *see also Malhi v. INS*, 336 F.3d 989, 994 (9th Cir. 2003) (motion must present clear and convincing evidence indicating strong likelihood of bona fide marriage).

To the extent Mikia contends that the BIA failed to consider some or all of the evidence she submitted with the motion to reopen, she has not overcome the presumption that the BIA did review the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.