

APR 14 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA CECILIA HURTADO-
CASTELLANOS,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71245

Agency No. A074-820-053

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Maria Cecilia Hurtado-Castellanos, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen deportation proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA's denial of a motion

* 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).

to reopen. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Hurtado-Castellanos's motion to reopen as untimely because she filed the motion more than eight years after the final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and she failed to establish the due diligence required for equitable tolling of the filing deadline, *see Iturribarria*, 321 F.3d at 897.

We lack jurisdiction to review Hurtado-Castellanos's contention that the BIA should have invoked its sua sponte authority to reopen her proceedings. *See Mejia-Hernandez v. Holder*, No. 07-74277, 2011 WL 240357, at * 3-4 (9th Cir. Jan. 27, 2011).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.