

APR 13 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FAVIOLA PEREZ-ROBLES,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-72529

Agency No. A071-638-175

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.

Faviola Perez-Robles, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ order summarily affirming an immigration judge’s (“IJ”) decision denying her motion to reopen deportation proceedings conducted in absentia in 1991. We dismiss the petition for review.

* 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).

We lack jurisdiction to review Perez-Robles' contention that the IJ should have equitably tolled the time limitation for her motion to reopen, and her contention that the IJ violated due process by failing to consider some of her evidence, because she failed to exhaust these contentions before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

To the extent Perez-Robles challenges the IJ's decision not to exercise her sua sponte authority to reopen proceedings, we lack jurisdiction to consider this claim. *See Mejia-Hernandez v. Holder*, 633 F.3d 818, 823-24 (9th Cir. 2011).

PETITION FOR REVIEW DISMISSED.