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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MIRIAM SELENNE BRISENO-GARCIA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-71714

Agency No. A073-952-353

MEMORANDUM*

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

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Miriam Selenne Briseno-Garcia, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing her appeal from an immigration judge’s order denying her motion to reopen removal proceedings. We

* 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).

have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and review de novo due process claims. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The agency did not abuse its discretion in denying Briseno-Garcia's motion to reopen where she filed the motion over six years after she was ordered deported, *see* 8 C.F.R. § 1003.23(b)(1) (motion to reopen must be filed within 90 days of final order), and she did not establish a basis for equitable tolling, *see Socop-Gonzalez v. INS*, 272 F.3d 1176, 1193 (9th Cir. 2001) (en banc) (equitable tolling available where, despite due diligence, petitioner is unable to obtain vital information bearing on the existence of a claim because of circumstances beyond petitioner's control).

Briseno-Garcia's contention that the denial of reopening violated her right to due process fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring a showing of error to prevail on a due process claim).

In light of our disposition, we need not reach Briseno-Garcia's remaining contentions.

PETITION FOR REVIEW DENIED.