

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2016

FOR THE NINTH CIRCUIT

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

AGRIPINA IANCU, AKA Iancu Agripina,

No. 15-71058

Petitioner,

Agency No. A087-761-203

v.

MEMORANDUM*

LORETTA E. LYNCH, Attorney General,

Respondent.

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

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Agripina Iancu, a native and citizen of Romania, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her motion to reconsider the denial of a motion to reopen her removal proceedings conducted in absentia. We dismiss

* 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).

the petition for review.

Iancu concedes that the motion to reconsider was untimely and failed to point out any errors of law or fact in the IJ's denial of her motion to reopen, *see* 8 C.F.R. §§ 1003.23(b)(1)-(2), but contends the IJ erred and abused her discretion in not construing her motion to reconsider as a request for sua sponte reopening, and that the motion to reopen was based on exceptional circumstances rather than on lack of notice. We lack jurisdiction to review these unexhausted contentions. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (court lacks jurisdiction to review legal claims not presented to the BIA).

PETITION FOR REVIEW DISMISSED.