

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 3 2018

FOR THE NINTH CIRCUIT

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

LESYA SHUNEVYCH,

Petitioner,

v.

MATTHEW G. WHITAKER, Acting
Attorney General,

Respondent.

No. 17-72951

Agency No. A076-667-235

MEMORANDUM*

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

Submitted November 27, 2018**

Before: CANBY, TASHIMA, and FRIEDLAND, Circuit Judges.

Lesya Shunevych, a native and citizen of Ukraine, petitions for review of the Board of Immigration Appeals' ("BIA") denial of her motion to reopen removal proceedings conducted in absentia in order to apply for asylum, withholding of removal, and protection under the Convention Against Torture. We have

* 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).

jurisdiction under 8 U.S.C. § 1252. We review for an abuse of discretion the denial of a motion to reopen. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2014). We deny the petition for review.

The BIA did not abuse its discretion in denying Shunevych's motion to reopen as untimely where she failed to establish prima facie eligibility for relief. *See Agonafer v. Sessions*, 859 F.3d 1198, 1204 (9th Cir. 2018) (stating requirements for granting motion to reopen); *Guo v. Sessions*, 897 F.3d 1208, 1213 (9th Cir. 2018) (stating standards for asylum and withholding of removal); *Aden v. Holder*, 589 F.3d 1040, 1047 (9th Cir. 2009) (stating standard for CAT relief).

Further, Shunevych has not shown that the BIA denied her due process by failing to consider relevant evidence. *See Larita-Martinez v. INS*, 220 F.3d 1092, 1095-96 (9th Cir. 2000) (holding that petitioner must overcome presumption that BIA considered all the relevant evidence).

PETITION FOR REVIEW DENIED.