

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FEB 21 2018

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

SILVIA CLAROS,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 15-70376

Agency No. A087-308-623

MEMORANDUM*

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

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Silvia Claros, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' decision dismissing her appeal from an immigration judge's order denying adjustment of status. We dismiss the petition for review.

* 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).

We lack jurisdiction to review Claros' unexhausted contention that she has carried her burden of showing eligibility for adjustment of status because the record of conviction is inconclusive due to the definition of "cocaine base" in California allegedly including substances that are not controlled under the Controlled Substances Act. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (the court lacks jurisdiction to consider legal claims not presented in an alien's administrative proceedings before the agency). Accordingly, to the extent Claros requests we take judicial notice of the related documents attached to her opening brief, we deny her request. *See Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (stating standard for review of out-of-record evidence).

Because the court issued its decision in *Almanza-Arenas v. Lynch*, 815 F.3d 469 (9th Cir. 2015), Claros' request to hold this case in abeyance pending that decision is denied as moot.

PETITION FOR REVIEW DISMISSED.