

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 21 2018

FOR THE NINTH CIRCUIT

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

ELBA RUBY ALVAREZ OLMOS,

No. 16-71724

Petitioner,

Agency No. A088-216-353

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted February 13, 2018**

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

Elba Ruby Alvarez Olmos, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her second motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the agency's denial of a motion to reconsider. *Cano-Merida*

* 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).

v. INS, 311 F.3d 960, 964 (9th Cir. 2002). We deny in part and dismiss in part the petition for review.

Alvarez Olmos has waived any challenge to the BIA's determination that 8 C.F.R. § 1003.2(b)(2) bars her from seeking reconsideration of the BIA's order denying her previous motion to reconsider. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n. 3 (9th Cir. 2011) (issues not raised in an opening brief are waived).

To the extent Alvarez Olmos seeks review of the BIA's March 9, 2015, order dismissing her appeal from an immigration judge's decision denying her application for cancellation of removal, we lack jurisdiction to consider those contentions because this petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Membreno v. Gonzales*, 425 F.3d 1227, 1229 (9th Cir. 2005) (the filing of a subsequent motion to reconsider does not affect the finality or reviewability of a previous order of removal).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.