

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

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

ROSA LIDIA CORDOVA ESPINOZA,

No. 17-71496

Petitioner,

Agency No. A208-887-777

v.

MEMORANDUM\*

WILLIAM P. BARR, Attorney General,

Respondent.

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

Submitted March 12, 2019\*\*

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Rosa Lidia Cordova Espinoza, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order affirming without opinion an immigration judge's ("IJ") decision denying her motion to reopen removal proceedings conducted in absentia. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, and we

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\* 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).

review for substantial evidence the agency's factual findings. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Cordova Espinoza's motion to reopen for failure to establish exceptional circumstances, where her only explanation for her failure to appear is that she was unable to find the courthouse, despite having the correct address. *See* 8 C.F.R. §1003.23(b)(4)(ii); 8 U.S.C. §1229a(e)(1) (defining exceptional circumstances as circumstances beyond the control of the alien); *see also Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205-06 (9th Cir. 2003) (petitioner's confusion regarding the time of her hearing was not an exceptional circumstance).

To the extent Cordova Espinoza contends the IJ erred in finding the immigration court is "steps away" from the Department of Homeland Security ("DHS") building which Cordova Espinoza claims to have mistaken for the court, or in finding that the DHS building was "not permanently closed", the record does not support these contentions. *See Najmabadi v. Holder*, 597 F.3d 983, 990 (9th Cir. 2010).

To the extent Cordova Espinoza now contends that she did not fail to appear for her hearing, we lack jurisdiction to consider this unexhausted contention. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review

legal claims not presented in the petitioner's administrative proceedings before the BIA).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**