

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 18 2022

FOR THE NINTH CIRCUIT

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

YOLANDA LOPEZ-MORALES, AKA
Yolanda Hernadez Lopez,

Petitioner,

v.

MERRICK B. GARLAND, Attorney
General,

Respondent.

No. 19-72964

Agency No. A077-322-739

MEMORANDUM*

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

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

Yolanda Lopez-Morales, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for

* 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). Accordingly, Lopez-Morales's request for oral argument, set forth in the opening brief, is denied.

abuse of discretion the BIA's denial of a motion to reopen. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We review de novo questions of law and claims of due process violations in immigration proceedings. *Lopez-Urenda v. Ashcroft*, 345 F.3d 788, 791 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Lopez-Morales's motion to reopen to assess her eligibility for cancellation of removal on the ground that she failed to establish prima facie eligibility. *See Garcia v. Holder*, 621 F.3d 906, 912 (9th Cir. 2010) (providing that a motion to reopen will not be granted absent a showing of prima facie eligibility for relief based on demonstrating a reasonable likelihood that the statutory requirements for relief have been satisfied); *see also Fernandez v. Gonzales*, 439 F.3d 592, 602 (9th Cir. 2006) (“[W]e have jurisdiction over motions to reopen regarding cases in which . . . the agency has not made a prior discretionary determination concerning the relief sought”).

Lopez-Morales's contentions that the BIA ignored evidence, erred in its legal analysis, and violated her right to due process fail. *See Najmabadi*, 597 F.3d at 990 (concluding the agency adequately considered evidence and sufficiently announced its decision); *see also Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to prevail on a due process claim).

Lopez-Morales's contention that there was legal error in the BIA's determination not to reopen proceedings sua sponte fails. *See Lona v. Barr*, 958

F.3d 1225, 1234 (9th Cir. 2020) (concluding the BIA’s denial of sua sponte relief was not premised on legal or constitutional error); *see also Bonilla v. Lynch*, 840 F.3d 575, 588 (9th Cir. 2016) (“[T]his court has jurisdiction to review Board decisions denying *sua sponte* reopening for the limited purpose of reviewing the reasoning behind the decisions for legal or constitutional error.”).

The stay of removal remains in place until issuance of the mandate.

PETITION FOR REVIEW DENIED.