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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>INGRIS GOMEZ,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General, et al.</p> <p style="text-align: center;">Respondents - Appellees.</p>

No. 05-16553

Agency A075-090-827

MEMORANDUM*

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

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Ingris Gomez, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' (BIA) order affirming the Immigration Judge's (IJ) denial of her motion to reopen.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction under 8 U.S.C. § 1252 to hear this converted habeas corpus claim as a timely filed petition for review of the BIA decision. *See* Pub. L. No. 109-13, 119 Stat. 231, § 106(a), 8 U.S.C. § 1252(a)(5); *see also id.* at § 106(c). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Gomez's contention that she should not have been charged as an arriving alien under 8 U.S.C. § 1182(a)(6)(C)(ii)(I) because she failed to exhaust this claim by raising this claim before the agency. *See* 8 U.S.C. § 1252(d)(1); *Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

In this court, Gomez fails to raise any challenge to the agency denial of her second motion to reopen and has therefore waived these issues on appeal. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1260 (9th Cir. 1996).

Gomez's motion to supplement the record is denied.

PETITION FOR REVIEW DISMISSED IN PART, DENIED IN PART.