

DEC 28 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LIBORIA PARTIDA-SANCHEZ,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
--

No. 08-74444

Agency No. A099-067-878

MEMORANDUM *

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE and FISHER, Circuit Judges.

Liboria Partida-Sanchez, a native and citizen of Mexico, petitions pro se for review of a Board of Immigration Appeals order denying her motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 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 the Board's denial of Partida-Sanchez's motion to reopen, which introduced further evidence of hardship to her United States citizen child. *See Fernandez v. Gonzales*, 439 F.3d 592, 600 (9th Cir. 2006) (explaining that § 1252(a)(2)(B)(i) bars jurisdiction when question presented in motion to reopen is essentially the same hardship ground originally decided).

The Board did not abuse its discretion in denying Partida-Sanchez's motion to reconsider because the motion failed to identify any errors of fact or law in the Board's order. *See* 8 C.F.R. § 1003.2(b)(1); *see also Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n.2 (9th Cir. 2001) (en banc). Partida-Sanchez challenges the constitutionality of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) and contends it violates the Equal Protection Clause by treating individuals differently based on nationality. This contention is foreclosed by *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002), which rejected a similar claim because NACARA's intent, to favor aliens who had either "taken unusual risks in escaping from oppressive governments" or "whose countries had been profoundly ravaged by war," satisfies the rational basis test.

PETITION FOR REVIEW DISMISSED in part, DENIED in part.