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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLGA ESTELA BARRERA ZAPETA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-72084

Agency No. A071-576-711

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.

Olga Estela Barrera Zapeta, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reconsider and reopen. Our jurisdiction is governed by 8 U.S.C. § 1252.

* 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 review for abuse of discretion the denial of a motion to reopen or reconsider, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Barrera Zapeta's motion as a motion to reconsider. The motion failed to specify an error of fact or law with respect to the BIA's prior determination that her February 1, 2006, motion to reopen was untimely. *See* 8 C.F.R. § 1003.2(b)(1).

The BIA also did not abuse its discretion in denying as untimely the motion as a motion to reopen where it was filed 3 years after the BIA's order dismissing the underlying appeal. *See* 8 C.F.R. § 1003.2(c)(2).

We lack jurisdiction to review the BIA's decision not to invoke its sua sponte authority to reopen proceedings under 8 C.F.R. § 1003.2(a). *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

In light of our disposition, we do not reach Barrera Zapeta's remaining contentions.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.