

JAN 19 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATRICIA PEREZ ROCHA,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-70550

Agency No. A095-443-749

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Patricia Perez Rocha, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to

* 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).

reconsider its decision denying her motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss the petition for review.

Nearly four months after the BIA issued its final decision, on June 29, 2006, Rocha filed a motion to reconsider, where she asserted an ineffective assistance of counsel claim. The BIA denied the motion because it was untimely, because Rocha failed to establish that equitable tolling applied, and because Rocha failed to show that she complied with *Matter of Lozada*, 19 I & N Dec. 637 (BIA 1988) or that she was prejudiced by her former attorney's actions. Rocha fails to challenge any of these findings. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not raised in the opening brief are deemed waived).

We lack jurisdiction to consider Rocha's contentions regarding the BIA's May 26, 2004 order dismissing her appeal from an immigration judge's decision denying her application for cancellation of removal, because this petition for review is not timely as to that order. *See Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED.