NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DENIA RUTH MURGA-SOSA,	No. 07-74022
Petitioner,	Agency No. A027-622-573
v.	
ERIC H. HOLDER Jr., Attorney General,	MEMORANDUM[*]
Respondent.	

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

Submitted February 16, 2010[**]

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Denia Ruth Murga-Sosa, a native and citizen of El Salvador, petitions for

review of the Board of Immigration Appeals' order dismissing her appeal from an

immigration judge's ("IJ") decision denying her motion to reopen removal

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[*]   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).

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proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for

abuse of discretion the denial of a motion to reopen, *Singh v. INS*, 295 F.3d 1037,

1039 (9th Cir. 2002), and de novo questions of law, *Ram v. INS*, 243 F.3d 510, 516

(9th Cir. 2001). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Murga-Sosa's second

motion to reopen as numerically barred, *see* 8 C.F.R. § 1003.23(b)(1) (limiting

party to one motion to reopen proceedings), and concluding that Petitioner failed to

establish grounds for waiving the numerical restriction, *cf. Varela v. INS*, 204 F.3d

1237, 1240 (9th Cir. 2000) (numerical limits may be waived in cases of fraud as

long as the petitioner acts with due diligence).

We lack jurisdiction to consider Murga-Sosa's contention that the IJ did not

give her notice regarding the consequences of failing to depart because she failed

to raise it before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir.

2004) (noting that due process challenges that are "procedural in nature" must be

exhausted).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.