

APR 12 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIRANDA SIASSI MOGHADAM,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 07-73668

Agency No. A045-647-788

MEMORANDUM*

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

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Miranda Siassi Moghadam, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying her motion to reconsider a prior order

* 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).

denying a motion to reopen based on ineffective assistance of counsel. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reconsider and review de novo constitutional claims. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion by denying Siassi Moghadam's motion to reconsider on the ground that she failed to establish prejudice, where she did not present any evidence that the state criminal court ever recalculated her sentence. *See id.* at 793-94; 8 U.S.C. § 1101(a)(48)(B) ("Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement *ordered by a court of a law ...*") (emphasis added).

We lack jurisdiction to review Siassi Moghadam's remaining contentions because she failed to exhaust them before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Counsel Tamiko O. Moore's motion to withdraw as counsel on behalf of petitioner is granted. Court records shall be amended to reflect that Miranda Siassi

Moghadam, located at 550 Montgomery Street, Suite 400, San Francisco, CA 94111 is representing herself.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.