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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AKOSUA AMPONSAAH
FRECKLETON,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-70161

Agency No. A023-430-758

MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Akosua Amponsaah Freckleton, a native and citizen of Jamaica, petitions for review of a Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her motion to reopen removal

* 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).

proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002). We deny the petition for review.

The agency did not abuse its discretion in denying Freckleton's motion to reopen because Freckleton's mistaken belief that her hearing was scheduled several hours later does not constitute exceptional circumstances within the meaning of 8 U.S.C. § 1229a(e)(1). *See Valencia-Fragoso v. INS*, 321 F.3d 1204, 1206 (9th Cir. 2003) (per curiam). Nor did the BIA abuse its discretion in concluding that Freckleton failed to establish ineffective assistance of counsel by her former counsel resulting in an exceptional circumstance. *See id.* Petitioner's contention that the BIA failed to consider the evidence is not supported by the record.

PETITION FOR REVIEW DENIED.