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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUCIA SANDOVAL-AMARO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-74638

Agency No. A075-682-513

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.

Lucia Sandoval-Amaro, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

* 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).

discretion the denial of a motion to reopen, *De Martinez v. Ashcroft*, 374 F.3d 759, 761 (9th Cir. 2004), and we deny the petition for review.

The BIA did not abuse its discretion in denying petitioner's motion to reopen because petitioner's failure to file the motion before the expiration of her voluntary departure period rendered her statutorily ineligible for cancellation of removal. *See id.* at 763-64; 8 U.S.C. § 1229c(d) (the failure to depart voluntarily within the time period results in a ten-year bar to certain forms of relief, including cancellation of removal).

Further, the BIA did not abuse its discretion in denying petitioner's motion to reopen to apply for relief under the Convention Against Torture because she did not file the motion within 90 days of the BIA's final order of removal, *see* 8 C.F.R. § 1003.2(c)(2), and she failed to demonstrate material changed circumstances in Mexico to qualify for the regulatory exception to the time limit, *see* 8 C.F.R. § 1003.2(c)(3)(ii), or prima facie eligibility for relief, *see Toufighi v. Mukasey*, 538 F.3d 988, 996-97 (9th Cir. 2008) (requiring movant to establish prima facie eligibility for relief).

PETITION FOR REVIEW DENIED.