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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARACELY DE LA LUZ POLANCO- CHINCHILLA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

Nos. 07-71933
07-72692

Agency No. A029-135-265

MEMORANDUM*

On Petitions for Review of Orders of the
Board of Immigration Appeals

Submitted May 25, 2010**

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

In these consolidated petitions for review, Aracely De La Luz Polanco-Chinchilla, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen deportation proceedings under the Nicaraguan Adjustment and Central American Relief Act

* 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).

(“NACARA”), and its order denying her motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of motions to reopen and reconsider, *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005), and we deny in part and dismiss in part the petitions for review.

The BIA did not abuse its discretion in denying Polanco-Chinchilla’s motion to reopen where her motion was filed more than five years after the September 11, 1998, NACARA deadline, *see* 8 C.F.R. § 1003.43(e)(1), and Polanco-Chinchilla did not demonstrate she acted with the due diligence required for equitable tolling, *cf. Albillo-De Leon v. Gonzalez*, 410 F.3d 1090 (9th Cir. 2005).

The BIA did not abuse its discretion in denying Polanco-Chinchilla’s motion to reconsider where the motion failed to identify any error of fact or law in the BIA’s prior decision. *See* 8 C.F.R. § 1003.2(b)(1); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n.2 (9th Cir. 2001) (en banc).

We lack jurisdiction to review Polanco-Chinchilla’s ineffective assistance of counsel claim because she failed to exhaust it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

Polanco-Chinchilla’s remaining contentions are unavailing.

PETITIONS FOR REVIEW DENIED in part; DISMISSED in part.