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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LISSETTE MENA-ESTRADA,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 08-74562

Agency No. A098-212-978

MEMORANDUM*

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

Submitted October 19, 2010**

Before: O’SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Lissette Mena-Estrada, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and review for

* 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).

substantial evidence the BIA's factual findings. *Najmabadi v. Holder*, 597 F.3d 983, 986 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion in denying Mena-Estrada's motion to reopen as untimely because Mena-Estrada filed the motion more than nine months after the BIA's final administrative decision, *see* 8 C.F.R. § 1003.2(c)(2), and Mena-Estrada failed to establish changed circumstances in El Salvador to qualify for the regulatory exception to the time limitation, *see* 8 C.F.R. § 1003.2(c)(3)(ii); *see also* *Najmabadi*, 597 F.3d at 991.

Mena-Estrada's contention that she should have been permitted to file a successive asylum application is foreclosed by *Lin v. Holder*, 588 F.3d 981, 989 (9th Cir. 2009).

Mena-Estrada's contention that the BIA failed to consider the evidence submitted with the motion to reopen fails because she has not overcome the presumption that the BIA reviewed the record. *See Franco-Rosendo v. Gonzales*, 454 F.3d 965, 966 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.