

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GLADIOLA MEDINA-GASPAR,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-72629

Agency No. A096-049-408

MEMORANDUM*

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

Submitted December 14, 2010**

Before: WALLACE, GOODWIN, and W. FLETCHER, Circuit Judges.

Gladiola Medina-Gaspar, a native and citizen of Mexico, 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

* 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).

abuse of discretion the denial of a motion to reopen. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Medina-Gaspar's motion to reopen as untimely, because it was filed more than five months after the BIA's final order of removal. *See* 8 C.F.R. § 1003.2(c)(2).

To the extent we have jurisdiction to review the BIA's decision not to invoke its sua sponte authority, the BIA acted within its broad discretion in declining to reopen under 8 C.F.R. § 1003.2(a).

PETITION FOR REVIEW DENIED.