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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ELENA GONZALEZ MENDEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 09-71745

Agency No. A073-859-621

MEMORANDUM\*

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

Submitted February 15, 2011\*\*

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Elena Gonzalez Mendez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ order dismissing her appeal from an immigration judge’s (“IJ”) removal order. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo questions of law, *Khan v. Holder*, 584 F.3d

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\* 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).

773, 776 (9th Cir. 2009), and we dismiss in part, and deny in part, the petition for review.

We lack jurisdiction to review the IJ's discretionary denial of a waiver under 8 U.S.C. § 1182(d)(11), and therefore we do not reach Gonzalez Mendez' contention concerning the IJ's adverse credibility determination. *See* 8 U.S.C. § 1252(a)(2)(B)(ii).

Gonzalez Mendez' contention that the IJ gave improper weight to one adverse factor does not raise a colorable due process claim, and therefore we lack jurisdiction to consider it. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

Gonzalez Mendez' contention that the IJ erred by considering her deception with regard to her smuggling attempt is foreclosed by *INS. v. Yueh-Shaio Yang*, 519 U.S. 26, 30 (1996) (agency may consider initial and subsequent fraud in the adjudication of discretionary fraud waiver).

**PETITION FOR REVIEW DISMISSED in part, DENIED in part.**