

MAR 10 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLGA MARINA PAZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70320

Agency No. A074-803-256

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.

Olga Marina Paz, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her motion to reopen deportation proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252.

* 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).

We review for abuse of discretion the denial of a motion to reopen, and review de novo claims of due process violations. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petition for review.

The agency did not abuse its discretion in denying Paz's motion to reopen on the ground that she failed to show that personal service of an Order to Show Cause was insufficient to provide her with notice of her hearing. *See* 8 C.F.R.

§ 1003.23(b)(4)(iii)(A)(2). Oral notice was not required by the statute, *see* 8 U.S.C. § 1252b(a) (1994), and Paz's contention that she was prejudiced by the lack of oral notice under former 8 C.F.R. § 242.1(c) is unpersuasive, *see Matter of Hernandez*, 21 I. & N. Dec. 224, 226-27 (BIA 1996).

It follows that Paz has not established a due process violation. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2004) (petitioner must show prejudice to prevail on a due process claim).

PETITION FOR REVIEW DENIED.