

MAR 25 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| |
|---|
| <p>MARTHA ALICIA CERNA AREBALO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p> |
|---|

No. 09-70831

Agency No. A079-523-206

MEMORANDUM*

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

Submitted March 8, 2011**

Before: FARRIS, O’SCANNLAIN, and BYBEE, Circuit Judges.

Martha Alicia Cerna Arebalo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reissue the BIA’s previous decision denying her motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of

* 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).

a motion to reopen, and review de novo claims of due process violations.

Hernandez-Velasquez v. Holder, 611 F.3d 1073, 1077 (9th Cir. 2010). We deny the petition for review.

The BIA did not abuse its discretion or violate due process in denying Cerna Arebalo's motion to reissue, where it concluded that the evidence submitted was insufficient to rebut the presumption of proper mailing. *See Singh v. Gonzales*, 494 F.3d 1170, 1172-73 (9th Cir. 2007) (BIA is obligated to consider and address the evidence submitted by petitioner); *see also Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for petitioner to prevail on a due process claim).

PETITION FOR REVIEW DENIED.