

APR 27 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ARELY YAZMIN GUERRA CRUZ,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71933

Agency No. A095-451-467

MEMORANDUM*

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

Submitted April 5, 2011**

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Arely Yazmin Guerra Cruz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reissue its 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 a motion to

* 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).

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 Guerra Cruz's motion to reissue because it had properly mailed the earlier decision at Guerra Cruz's last known addresses. *See Singh v. Gonzales*, 494 F.3d 1170, 1172 (9th Cir. 2007) (BIA fulfills its statutory duty of service if the decision is mailed to the appropriate party at his or her address of record); *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.