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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA ESTHER SANDOVAL
CALDERON,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71158

Agency No. A070-103-175

MEMORANDUM*

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

Submitted June 15, 2011**

Before: CANBY, O’SCANNLAIN, and FISHER, Circuit Judges

Maria Esther Sandoval Calderon, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing her appeal from an immigration judge’s decision denying her motion to reopen her deportation proceedings conducted in absentia. We have jurisdiction

* 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).

under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Arrieta v. INS*, 117 F.3d 429, 430 (9th Cir. 1997). We grant the petition for review and remand.

The BIA abused its discretion in determining that Sandoval Calderon's receipt of the hearing notice for her December 7, 1993 hearing constituted proper service of the hearing notice for the April 3, 1995 hearing at which she was ordered deported in absentia. *See* 8 U.S.C. § 1252b(c)(1) (1995). We remand for the agency to determine whether she was properly served with the hearing notice for the April 3, 1995 hearing in light of the unaddressed contentions in her motion to reopen.

In light of our disposition, we need not reach Sandoval Calderon's remaining contentions.

PETITION FOR REVIEW GRANTED; REMANDED.