

JUL 20 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JUANA DE LEON-BORAYO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
--

No. 10-72723

Agency No. A027-211-797

MEMORANDUM*

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

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Juana De Leon-Borayo, 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 under section 203(c) of the Nicaraguan Adjustment and Central

* 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).

American Relief Act (“NACARA”). We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1187 (9th Cir. 2001), and we deny the petition for review.

The agency did not abuse its discretion by denying De Leon-Borayo’s motion to reopen as untimely where the motion was filed after the September 11, 1998, filing deadline, *see* 8 C.F.R. § 1003.43(e)(1), and De Leon-Borayo’s ignorance of the deadline and her status before the September 11, 1998, deadline was not caused by circumstances beyond her control, *see Socop-Gonzalez*, 272 F.3d at 1193 (equitable tolling available in circumstances beyond a “garden variety claim of excusable neglect.”); *cf. Albillo-De Leon v. Gonzales*, 410 F.3d 1090, 1099 (9th Cir. 2005) (NACARA deadline tolled where petitioner missed deadline because of representative’s deception).

PETITION FOR REVIEW DENIED.