

JUL 21 2011

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ZINAIDA IVANOVNA LIPSYUK,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-71648

Agency No. A088-197-142

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.

Zinaida Ivanovna Lipsyuk, a native and citizen of Moldova, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse 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).

discretion the denial of a motion to reopen, *Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003), and we deny the petition for review.

The BIA did not abuse its discretion in denying Lipsyuk's motion to reopen because Lipsyuk did not demonstrate prima facie eligibility for adjustment of status as the battered spouse of a United States citizen. *See id.* at 994.

The BIA did not abuse its discretion in also denying Lipsyuk's motion to reopen because the motion failed to comply with the requirements set forth in *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988). *See Azanor v. Ashcroft*, 364 F.3d 1013, 1023 (9th Cir. 2004) (the failure to comply with *Lozada* is significant where the facts underlying petitioner's claim are not plain on the face of the record).

We do not consider the July 29, 2009, Notice of Action regarding Lipsyuk's I-360 petition because our review is limited to the administrative record. *See* 8 U.S.C. § 1252(b)(4)(A).

PETITION FOR REVIEW DENIED.