

AUG 17 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHARON DANIELA MENDEZ  
TOLEDO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 10-71167

Agency No. A070-814-968

MEMORANDUM\*

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

Submitted August 1, 2011\*\*

Before: LEAVY, THOMAS, and MURGUIA, Circuit Judges.

Sharon Daniela Mendez Toledo, a native and citizen of Guatemala, petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing her appeal from an immigration judge’s (“IJ”) decision denying her motion to reopen removal proceedings conducted in absentia. We have jurisdiction under

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\* 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).

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny the petition for review.

The BIA did not abuse its discretion in denying Mendez Toldeo's motion to reopen because the motion was filed more than ten years after the IJ's August 4, 1998, removal order, *see* 8 U.S.C. § 1229a(b)(5)(C)(i), and Mendez Toledo failed to establish that she lacked notice, *see id.* at (C)(ii), or establish grounds for equitable tolling, *see Iturribarria v. INS*, 321 F.3d 889, 897-98 (9th Cir. 2003).

Mendez Toledo's contention that personal service of the notice to appear and hearing notice on her mother was insufficient is not persuasive. *See* 8 C.F.R. § 103.5a(c)(2)(ii) (service of notice to appear "shall be made upon the person with whom the . . . minor resides"); *see also Flores-Chavez v. Ashcroft*, 362 F.3d 1150, 1157 (9th Cir. 2004) (immigration regulations "contemplate[] that no minor alien under age eighteen should be presumed responsible for understanding his rights and responsibilities in preparing for and appearing at final immigration proceedings.").

Mendez Toledo's remaining contentions are not persuasive.

**PETITION FOR REVIEW DENIED.**