

JAN 24 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DINA MARIBEL LUNA-RAMIREZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-72812

Agency No. A098-112-383

MEMORANDUM*

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

Submitted January 17, 2012**

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Dina Maribel Luna-Ramirez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen and reconsider its underlying decision dismissing as untimely her appeal from an immigration judge’s (“IJ”) removal order. 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 BIA's denial of a motion to reopen and reconsider. *Mohammed v. Gonzales*, 400 F.3d 785 (9th Cir. 2005). We grant the petition for review and remand.

The BIA dismissed Luna-Ramirez's appeal on jurisdictional grounds, as untimely, without the benefit of our decision in *Irigoyen-Briones v. Holder*, 644 F.3d 943, 948 (9th Cir. 2011) (holding that the BIA's 30-day deadline for appeals is a claim-processing rule and is not jurisdictional). We therefore remand for the agency to reconsider whether, under the circumstances presented, it will hear the appeal from the IJ's decision in this case. *See INS v. Ventura*, 537 U.S. 12, 16 (2002).

PETITION FOR REVIEW GRANTED; REMANDED.