

SEP 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HONG LING,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

No. 11-70657

Agency No. A096-349-752

MEMORANDUM*

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

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Hong Ling, a native and citizen of China, petitions for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reopen proceedings based on ineffective assistance of counsel. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion a motion to reopen, and de novo

* 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).

questions of law and claims of due process violations. *Reyes v. Ashcroft*, 358 F.3d 592, 595 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Ling's motion to reopen for failure to show a due process violation where Ling did not establish that her former attorney's alleged actions regarding her birth certificate rendered her proceedings unfair. *See Dent v. Holder*, 627 F.3d 365, 373 (9th Cir. 2010).

We lack jurisdiction to review Ling's contention that the attorney who represented her before the BIA provided ineffective assistance because she failed to raise the issue before the BIA, and thereby failed to exhaust her administrative remedies. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims not presented before the BIA).

Ling's remaining contentions are unavailing.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.