

SEP 18 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JULIA RINCON-DE PICCIOTTO,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>

Nos. 08-71605
08-73298

Agency No. A077-270-811

MEMORANDUM*

On Petitions for Review of Orders of the
Board of Immigration Appeals

Submitted September 10, 2012**

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

In these consolidated petitions for review, Julia Rincon-De Picciotto, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals’ (“BIA”) orders dismissing her appeal from an immigration judge’s (“IJ”) decision preterminating her application for cancellation of removal, and denying her

* 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).

motion to reconsider. We have jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law and claims of due process violations, and for abuse of discretion the denial of a motion to reconsider. *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005). We deny the petitions for review.

The agency did not err or violate due process by preterminating Picciotto's application for cancellation of removal where she lacked seven years of continuous residence in the United States after being "admitted in any status." *See* 8 U.S.C. § 1229b; *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (petitioner must show error and prejudice to establish a due process violation); *see also Vasquez de Alcantar v. Holder*, 645 F.3d 1097, 1103 (9th Cir. 2011) (filing an application for adjustment of status does not confer admission); *Guevara v. Holder*, 649 F.3d 1086, 1094 (9th Cir. 2011) (a grant of work authorization does not confer admission).

The BIA did not abuse its discretion in denying Picciotto's motion to reconsider because the motion failed to identify any material error of fact or law in the BIA's prior decision affirming the IJ's order preterminating Picciotto's application for cancellation. *See* 8 C.F.R. § 1003.2(b)(1).

PETITIONS FOR REVIEW DENIED.