

DEC 28 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RACHEL ERIKA PIZAN, a.k.a. Rachel Erika Alcalde, a.k.a. Rachel Erika Bigler, a.k.a. Rachel de Alcalde, a.k.a. Rachel Piza, a.k.a. Rachel Pizan,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-72380

Agency No. A077-970-039

MEMORANDUM\*

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

Submitted December 19, 2012\*\*

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Rachel Erika Pizan, a native and citizen of Peru, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen

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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).

removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400 F.3d 785, 791 (9th Cir. 2005). We deny the petition for review.

The BIA did not abuse its discretion in denying Pizan's motion to reopen because she failed to show she was prejudiced by her counsel's performance. *See Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 826 (9th Cir. 2003) (presumption of prejudice rebutted where petitioner cannot establish plausible grounds for relief).

In light of our disposition, we need not address Pizan's remaining contentions.

We do not consider the supplemental material filed by Pizan because it is not part of the administrative record. *Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010).

**PETITION FOR REVIEW DENIED.**