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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DINORAH MILLAN-PORTELA, AKA
Dinorah A. Millan-Portela,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-73352

Agency No. A095-788-282

MEMORANDUM*

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

Submitted March 4, 2013**
Seattle, Washington

Before: FERNANDEZ, W. FLETCHER, and RAWLINSON, Circuit Judges.

Dinorah Millan-Portela (Millan-Portela), petitions for review of the Board of Immigration Appeals' (BIA) dismissal of her appeal of an Immigration Judge's (IJ) decision finding her statutorily ineligible for cancellation of removal because she

* 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).

was convicted of two crimes involving moral turpitude (CIMT). We deny the petition.

1. Millan-Portela failed to establish that any ineffective assistance of counsel was prejudicial because her two theft convictions rendered her statutorily ineligible for relief. *See Iturribarria v. INS*, 321 F.3d 889, 903 (9th Cir. 2003). Although Millan-Portela's attorney was required to inform her of the immigration consequences of her guilty plea pursuant to the Supreme Court's ruling in *Padilla v. Kentucky*, 559 U.S. 356 (2010), that case does not apply retroactively to Millan-Portela's claims. *See Chaidez v. United States*, No. 11-820, ___ S. Ct. ___, 2013 WL 610201, at *1 (Feb. 20, 2013).

2. The IJ's failure to correct any errors made by counsel during the removal proceedings did not render those proceedings "fundamentally unfair," as the IJ's only responsibility is to advise the Petitioner of available relief. *See United States v. Lopez-Velasquez*, 629 F.3d 894, 900-01 (9th Cir. 2010) (explaining that an IJ is not responsible for advising a petitioner of relief that is not reasonably available).

PETITION FOR REVIEW DENIED.