

SEP 30 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MASSIELL DE JESUS BERMUDEZ,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 12-72042

Agency No. A039-729-898

MEMORANDUM*

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

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Massiell De Jesus Bermudez, a native and citizen of Nicaragua, petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing her appeal from a decision of an immigration judge (“IJ”) denying her motion to continue her removal proceedings. We dismiss the petition for review.

* 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).

Bermudez does not challenge the IJ's finding that she is removable under 8 U.S.C. § 1227(a)(2)(A)(iii) due to her conviction for petty theft with priors under California Penal Code § 666. Her removability on this basis limits our jurisdiction to constitutional claims and questions of law. *See* 8 U.S.C. § 1252(a)(2)(C)-(D).

Bermudez's contentions that the IJ should have continued her removal proceedings pending the outcome of her state-court petition for post-conviction relief and that the BIA did not properly consider the decision in *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010), when adjudicating her appeal are not sufficiently colorable to invoke our jurisdiction under 8 U.S.C. § 1252(a)(2)(D). *See* *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) ("To be colorable in this context, the alleged violation need not be substantial, but the claim must have some possible validity." (citation and internal quotation marks omitted)).

PETITION FOR REVIEW DISMISSED.