

SEP 02 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SHUIYUE JIN,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-72736

Agency No. A099-890-521

MEMORANDUM*

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

Submitted August 25, 2015**

Before: McKEOWN, CLIFTON, and HURWITZ, Circuit Judges.

Shuiyue Jin, a native and citizen of China, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's decision denying her motion to reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the

* 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).

denial of a motion to reopen. *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002). We deny the petition for review.

The agency did not abuse its discretion in denying Jin's motion to reopen, where the evidence does not compel the finding that she established exceptional circumstances for her failure to appear. *See* 8 U.S.C. 1229a(b)(5)(C)(i); *Celis-Castellano*, 298 F.3d at 892 (applying a totality of the circumstances test to determine whether exceptional circumstances were present); *Limsico v. INS*, 951 F.2d 210, 214 (9th Cir. 1991) (agency has authority to evaluate contrary evidence).

Because this determination is dispositive, we need not reach Jin's contentions regarding whether her illness was sufficiently serious to constitute exceptional circumstances.

PETITION FOR REVIEW DENIED.