

APR 18 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GRACIELA FUENTES-AGUILERA,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 14-72160

Agency No. A201-156-214

MEMORANDUM*

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

Submitted April 13, 2016**

Before: FARRIS, TALLMAN, and BYBEE, Circuit Judges.

Graciela Fuentes-Aguilera, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judge's ("IJ") decision granting voluntary departure. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo constitutional claims.

* 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).

Ibarra-Flores v. Gonzales, 439 F.3d 614, 620 (9th Cir. 2006). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Fuentes-Aguilera’s unexhausted contention that she is eligible for cancellation of removal as she did not pursue this form of relief before the IJ. *See Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (the court lacks jurisdiction to consider legal claims not presented in an alien’s administrative proceedings before the agency).

Fuentes-Aguilera’s contention that the IJ violated due process by not giving her the opportunity to apply for cancellation of removal is belied by the record. *See Ibarra-Flores*, 439 F.3d at 620-21 (due process claims require showing that proceedings were “so fundamentally unfair that the alien was prevented from reasonably presenting his case”) (internal quotation marks and citation omitted)).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.