

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 2 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MARIA BERTHA MORALES-APARICIO,

No. 16-70665

Petitioner,

Agency No. A077-541-465

v.

MEMORANDUM*

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

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

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Maria Bertha Morales-Aparicio, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") 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.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We review the denial of a motion to reopen for abuse of discretion, *Sembiring v. Gonzales*, 499 F.3d 981, 986 (9th Cir. 2007), we deny the petition for review.

The BIA did not abuse its discretion in denying Morales-Aparicio's motion to reopen to rescind her deportation order where the hearing notice was sent by regular mail to the post office box provided by Morales-Aparicio, there is no evidence that mail sent there by DHS was ever returned as undeliverable, and her evidence is not sufficient to rebut the presumption of delivery. *Cf. Sembiring v. Gonzales*, 499 F.3d 981, 988-90 (9th Cir. 2007) (describing evidence sufficient to overcome presumption of effective service).

PETITION FOR REVIEW DENIED.