

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 14 2018

FOR THE NINTH CIRCUIT

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

TERESA DE JESUS PATINO-
GONZALEZ,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 17-71761

Agency No. A095-194-152

MEMORANDUM*

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

Submitted June 12, 2018**

Before: RAWLINSON, CLIFTON, and NGUYEN, Circuit Judges.

Teresa De Jesus Patino-Gonzalez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen. *Mohammed v. Gonzales*, 400

* 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).

F.3d 785, 791 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Patino-Gonzalez's seventh motion to reopen as untimely and number-barred, where she filed it more than nine years after the order of removal became final, and she has not established that any statutory or regulatory exception applies. *See* 8 U.S.C. § 1229a(c)(7), 8 C.F.R. § 1003.2(c)(2), (3).

The court's jurisdiction to review the BIA's *sua sponte* determination is limited to reviewing the reasoning behind the decision for legal or constitutional error, and Patino-Gonzalez has not established any error. *See Bonilla v. Lynch*, 840 F.3d 575, 588 (9th Cir. 2016); *De Mercado v. Mukasey*, 566 F.3d 810, 816 n. 5 (9th Cir. 2009) (denial of an application for cancellation of removal does not implicate constitutional rights concerning family unity or child rearing).

We lack jurisdiction to consider Patino-Gonzalez's challenges to the agency's underlying hardship determination, because this petition is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1) (petition for review of a final order of removal must be filed within 30 days of that order); *Martinez-Serrano v. INS*, 94 F.3d 1256, 1258 (9th Cir. 1996) (this court lacks jurisdiction to review an underlying order of removal on petition for review from the denial of a later motion to reopen).

We lack jurisdiction to consider Patino-Gonzalez's request for prosecutorial discretion or deferred action. *See Vilchiz-Soto v. Holder*, 688 F.3d 642, 644 (9th Cir. 2012) (order).

We do not consider the documents that Patino-Gonzalez submitted with her opening brief because they were not part of the administrative record. *See* 8 U.S.C. § 1252(b)(4)(A) (judicial review is limited to the administrative record); *Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (stating standard for review of out of record evidence).

PETITION FOR REVIEW DENIED in part, DISMISSED in part.