

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 23 2019

FOR THE NINTH CIRCUIT

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

MARIA DELFINA GARCIA SARABIA,

Nos. 17-70662

Petitioner,

17-72131

v.

Agency No. A202-097-447

WILLIAM P. BARR, Attorney General,

MEMORANDUM*

Respondent.

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

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

In these consolidated petitions, Maria Delfina Garcia Sarabia, 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 application for asylum, withholding of removal, and relief under the

* 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).

Convention Against Torture (“CAT”) (petition No. 17-70662) and of the BIA’s order denying her motion to reconsider (petition No. 17-72131). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s factual findings. *Garcia-Milian v. Holder*, 755 F.3d 1026, 1031 (9th Cir. 2014). We review for abuse of discretion the BIA’s denial of a motion to reconsider. *Ayala v. Sessions*, 855 F.3d 1012, 1020 (9th Cir. 2017). We dismiss in part and deny in part the petitions for review.

As to petition No. 17-70662, we lack jurisdiction to consider Garcia Sarabia’s contentions regarding her asylum, withholding of removal, and CAT claims because these claims were not presented to the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

As to petition No. 17-72131, the BIA did not abuse its discretion in denying the motion to reconsider where Garcia Sarabia failed to allege any legal or factual error. *See* 8 C.F.R. § 1003.2(b)(1) (stating that a motion to reconsider “shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority”); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180, n.2 (9th Cir. 2001) (en banc).

Garcia Sarabia's motion to remand (Docket Entry No. 25) is denied. *See Karingithi v. Whitaker*, 913 F.3d 1158, 1160-62 (9th Cir. 2019) (initial notice to appear need not include time and date information to vest jurisdiction in the immigration court).

No. 17-70662: PETITION FOR REVIEW DISMISSED.

No. 17-72131: PETITION FOR REVIEW DENIED.