

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 11 2020

FOR THE NINTH CIRCUIT

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

YENNY MARITZA SILVA-ISAIS DE
RAMIREZ, AKA Jenny Marissa Silva
Ramirez, AKA Yenny Mariza Silva-Isais de
Ramirez,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

No. 15-73384

Agency No. A075-749-110

MEMORANDUM*

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

Submitted September 8, 2020**

Before: TASHIMA, SILVERMAN, and OWENS, Circuit Judges.

Yenny Maritza Silva-Isais de Ramirez, a native and citizen of Mexico,
petitions for review of the Board of Immigration Appeals' ("BIA") order granting
her motion to reopen for the purpose of reinstating her voluntary departure period.

* 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 have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the BIA’s decision on the motion to reopen and review de novo questions of law. *See Bonilla v. Lynch*, 840 F.3d 575, 581 (9th Cir. 2016). We grant the petition for review.

The BIA erred and abused its discretion by not treating Silva’s motion as a motion to reopen and remand to apply for adjustment of status, and by instead reinstating the voluntary departure period, which Silva did not request. *See Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) (“IJs and the BIA are not free to ignore arguments raised by a petitioner”); *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005) (“The BIA abuses its discretion when it acts ‘arbitrarily, irrationally, or contrary to the law.’” (citation omitted)). We remand for the BIA to consider whether to reopen to allow Silva to apply for adjustment status.

Silva’s removal is stayed pending a decision by the BIA.

PETITION FOR REVIEW GRANTED; REMANDED.