

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 23 2022

FOR THE NINTH CIRCUIT

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

JENNYFFER ROXANA SARAVIA-  
MERLOS,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 15-73587

Agency No. A206-775-737

MEMORANDUM\*

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

Submitted May 17, 2022\*\*

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

Jennyffer Roxana Saravia-Merlos, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals’ (“BIA”) order denying her motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the BIA’s denial of a motion to

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\* 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).

reconsider. *Ayala v. Sessions*, 855 F.3d 1012, 1020 (9th Cir. 2017). We review de novo claims of due process violations in immigration proceedings. *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Saravia-Merlos's motion to reconsider where she failed to identify any error of law or fact in the BIA's prior decision. *See* 8 C.F.R. § 1003.2(b)(1); *Ma v. Ashcroft*, 361 F.3d 553, 558 (9th Cir. 2004) ("A petitioner's motion to reconsider must identify a legal or factual error in the BIA's prior decision.").

The BIA also did not abuse its discretion in denying Saravia-Merlos's motion, where she failed to comply with the procedural requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), and any alleged ineffective assistance is not plain on the face of the record. *See Tamang v. Holder*, 598 F.3d 1083, 1090-91 (9th Cir. 2010) (failure to satisfy *Matter of Lozada* requirements was fatal to ineffective assistance of counsel claim where ineffectiveness was not plain on the face of the record).

We lack jurisdiction to consider Saravia-Merlos's contentions as to the merits of her application for asylum and related relief from removal because she did not timely petition for review as to that order. *See* 8 U.S.C. § 1252(b)(1) ("The petition for review must be filed not later than 30 days after the date of the final

order of removal.”); *see also Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003) (30-day deadline is “mandatory and jurisdictional”).

We also lack jurisdiction to consider Saravia-Merlos’s contention that the immigration judge violated her right to due process or any request for relief under the Trafficking Victims Protection Reauthorization Act because she failed to raise the issues before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (court lacks jurisdiction to review claims not presented to the agency).

Saravia-Merlos’s contention that the BIA violated her right to due process fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error to prevail on a due process claim).

The temporary stay of removal remains in place until issuance of the mandate.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**