

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 26 2026

FOR THE NINTH CIRCUIT

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

MARITSA GUADA GODOY SOTO,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-2158

Agency No.
A074-428-644

MEMORANDUM*

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

Submitted October 19, 2026**
Pasadena, California

Before: GOULD, N.R. SMITH, and JOHNSTONE, Circuit Judges.

Petitioner Maritsa Guada Godoy Soto, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals’ (“BIA”) decision dismissing her appeal of the Immigration Judge’s (“IJ”) order denying Petitioner’s motion to reopen deportation proceedings and rescind an *in absentia* deportation

* 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).

order. The parties are familiar with the facts, and we do not recount them here. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny in part and dismiss in part the petition.

When, as here, “the BIA conducts its own review of the evidence and law, rather than adopting the IJ’s decision, our review is limited to the BIA’s decision, except to the extent the IJ’s opinion is expressly adopted.” *Lapadat v. Bondi*, 145 F.4th 942, 950 (9th Cir. 2025) (internal quotation marks and citation omitted). We review denials of motions to reopen for abuse of discretion. *Eskilian v. Bondi*, 172 F.4th 682, 687 (9th Cir. 2026). “The BIA abuses its discretion when it acts arbitrarily, irrationally, or contrary to the law, and when it fails to provide a reasoned explanation for its actions.” *Id.* (citing *Montejo-Gonzalez v. Bondi*, 166 F.4th 851, 854 (9th Cir. 2026) (en banc)). We review *de novo* “the BIA’s determination of purely legal questions, including claims of due process violations” and the sufficiency of notice. *Martinez v. Barr*, 941 F.3d 907, 921 (9th Cir. 2019) (internal quotation marks and citation omitted).

1. The agency did not abuse its discretion in denying Petitioner’s motion to reopen. The BIA found that Petitioner waived any challenge to the IJ’s finding of actual—and therefore sufficient—notice. *See Khan v. Ashcroft*, 374 F.3d 825, 828 (9th Cir. 2004). Petitioner has forfeited any challenge to the BIA’s waiver finding by not raising that issue in her brief. *See Hernandez-Ortiz v. Garland*, 32 F.4th 794,

805 (9th Cir. 2022).

The agency did not abuse its discretion in finding that Petitioner’s motion failed to demonstrate exceptional circumstances where Petitioner had actual notice of her hearing and made only vague allegations that a “notario” did not tell her about her hearing. *See Singh-Bhathal v. INS*, 170 F.3d 943, 946-47 (9th Cir. 1999) (holding that petitioner did not demonstrate exceptional circumstances where he had notice of a hearing and a non-attorney merely advised him not to attend).

And, reviewing *de novo*, the agency did not err in finding that Petitioner failed to make out a due process violation related to the alleged notario interference. Even assuming Petitioner’s due process claim is not foreclosed by *Hernandez v. Mukasey*, 524 F.3d 1014, 1020 (9th Cir. 2008) (holding that voluntary and knowing reliance on a non-attorney will generally not support an ineffective assistance of counsel due process claim), Petitioner presented no evidence in her motion to reopen that a notario interfered with the actual notice she received of her missed hearing. Moreover, she did not comply with the procedural requirements of *Matter of Lozada*, 19 I. & N. Dec 637 (BIA 1988), which are particularly important when the record does not show “a clear and obvious case of ineffective assistance of counsel.” *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1227 (9th Cir. 2002); *see also Tamang v. Holder*, 598 F.3d 1083, 1090 (9th Cir. 2010) (holding that petitioner failed to demonstrate ineffective assistance of counsel where he did not describe interactions

with counsel, was unsure if counsel was an attorney, and did not comply with the *Lozada* steps).

2. We do not have jurisdiction to review the agency’s denial of *sua sponte* reopening because the agency based its denial on its finding that Petitioner did not demonstrate exceptional circumstances. *See Lona v. Barr*, 958 F.3d 1225, 1234 (9th Cir. 2020) (holding that we only have jurisdiction to review denials of *sua sponte* reopening when the agency “erroneously believed that the law forbade it from exercising its discretion . . . or that exercising its discretion would be futile”).

3. The agency did not err by not adjudicating Petitioner’s application for relief from deportation. *See Franco-Rosendo v. Gonzales*, 454 F.3d 965, 968 n.3 (9th Cir. 2006) (“[I]f the BIA could properly deny a motion to reopen in the exercise of discretion, there was no need to consider eligibility for underlying relief.”) (citing *INS v. Bagamasbad*, 429 U.S. 24 (1976)).

PETITION DENIED in part and DISMISSED in part.¹

¹ Petitioner’s motion to stay removal pending appeal (Dkt. No. 4) is denied.