

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

MAR 24 2008

MARIA GUADALUPE AMBRIZ-  
RIVERA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-76676

Agency No. A77-070-282

MEMORANDUM\*

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

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

Argued and Submitted February 14, 2008  
Pasadena, California

Before: B. FLETCHER and N.R. SMITH, Circuit Judges, and KING,\*\* District  
Judge.

Maria Guadalupe Ambriz-Rivera, a native and citizen of Mexico, petitions  
for review of an order of the Board of Immigration Appeals (“BIA”) summarily

---

\* This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable Samuel P. King, Senior United States District Judge for the  
District of Hawaii, sitting by designation.

affirming a decision of an Immigration Judge (“IJ”) finding her removable for alien smuggling under 8 U.S.C. § 1227(a)(1)(E)(i). We have jurisdiction pursuant to 8 U.S.C. § 1252(a), and we deny the petition.

The IJ’s decision finding that Ambriz-Rivera was removable for alien smuggling was supported by substantial evidence. *See Lanza v. Ashcroft*, 389 F.3d 917, 925 (9th Cir. 2004) (noting that when the BIA affirms the IJ without an opinion pursuant 8 C.F.R. § 1003.1(e)(4), we review the IJ’s decision as we would that of the BIA); *INS v. Elias-Zacarias*, 502 U.S. 478, 483-84 (1992) (noting that we review a final order of removal for substantial evidence). Border Patrol and immigration agents testified that they were running a program to apprehend alien smugglers or guides, where agents follow an alien (who has presented false documentation at the U.S.-Mexico border) until she meets with a smuggler in the United States, and both are apprehended. After Lorena Rodriguez-Salinas presented false documents while crossing the border, three Border Patrol and immigration agents observed her cross the border at San Ysidro and take a northbound trolley to San Diego, wait at a trolley station for approximately 30 minutes while five southbound trolleys passed, suddenly board a southbound trolley on which Ambriz-Rivera was also riding, get off a couple of stops later with Ambriz-Rivera, and walk several blocks with Ambriz-Rivera while the two

constantly looked over their shoulders as if they feared they were being followed. As soon as they split up, both were apprehended.

Our conclusion that the IJ's decision is supported by substantial evidence is fortified by the IJ's assessment of the credibility of Ambriz-Rivera's testimony. The IJ, who had the opportunity to view both Ambriz-Rivera and the agents as they testified, noted that her testimony was weak, unreliable, evasive, and inconsistent with the testimony of the officers (even giving her ample opportunity to explain the inconsistencies). *See Singh v. INS*, 134 F.3d 962, 969 n.14 (9th Cir. 1998) (noting that when reviewing a decision for substantial evidence "we may not reweigh the evidence" to make our own determination, but rather, must determine only whether the evidence compels a conclusion contrary to that of the BIA); *Canjura-Flores v. INS*, 784 F.2d 885, 888 (9th Cir. 1985) ("The [IJ] is in the best position to make credibility findings because he views the witness as testimony is given.").

Lastly, the agents' testimony alone supports the IJ's conclusion that Ambriz-Rivera affirmatively aided Rodriguez-Salinas illegally enter the United States. *Elias-Zacarias*, 502 U.S. at 483-84 (stating that the BIA's factual findings may be reversed only if the evidence compels a different conclusion). We therefore need not determine whether the government made reasonable efforts to secure Rodriguez-Salinas's presence at the hearing or whether admitting Rodriguez-

Salinas's interview into evidence violated Ambriz-Rivera's due process rights.

**PETITION FOR REVIEW DENIED.**