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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>YAZMINE IVETTE VILLASENOR,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 06-72314

Agency No. A76-355-165

MEMORANDUM\*

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

Submitted March 18, 2008\*\*

Before: CANBY, T. G. NELSON, and BEA, Circuit Judges

Yazmine Ivette Villasenor petitions pro se for review of the Board of Immigration Appeals' dismissal of her appeal from an immigration judge's denial of her motion to reopen an in absentia removal order. She contends that the Board

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

erred in dismissing her appeal as one day late under 8 C.F.R. § 1003.38(b) and (c). Our jurisdiction is governed by 8 U.S.C. § 1252. We deny the petition for review.

Villasenor's notice of appeal was filed by her attorney 31 days after the mailing of the immigration judge's decision and therefore was untimely under 8 C.F.R. § 1003.38(b) and (c).

She contends that the Board should have considered her appeal on its merits because the immigration judge erred in denying her motion to reopen, and the untimeliness of the appeal did not cause any prejudice. These arguments do not rise to the level of rare circumstances justifying an exception to the deadline for appeal. *See Oh v. Gonzales*, 406 F.3d 611, 613 (9th Cir. 2005) (stating that equitable defenses do not apply to jurisdictional deadline).

**PETITION FOR REVIEW DENIED.**