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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| ANA E. RODRIGUEZ GUTIERREZ,<br><br>Petitioner,<br><br>v.<br><br>MICHAEL B. MUKASEY, Attorney General,<br><br>Respondent. | No. 07-71362<br><br>Agency No. A079-535-294<br><br>MEMORANDUM[*] |

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

Submitted January 13, 2009[**]

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Ana E. Rodriguez Gutierrez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. Our jurisdiction is governed by

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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).

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8 U.S.C. § 1252. Reviewing for abuse of discretion, *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008), we deny in part and dismiss in part the petition for review.

The BIA did not abuse its discretion in denying Petitioner's motion to reopen as untimely because the motion was filed more than 37 months after the BIA's December 8, 2003 order dismissing Petitioner's appeal. *See* 8 C.F.R. § 1003.2(c)(2).

Petitioner's contention that the BIA's decision denying her motion to reopen violated due process fails. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

To the extent Petitioner seeks review of the BIA's December 8, 2003 order dismissing her appeal, we lack jurisdiction because the petition for review is not timely as to that order. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003).

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