

JUL 30 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARIA DE LA LUZ SANCHEZ MARTINEZ,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 07-74128

Agency No. A096-364-878

MEMORANDUM*

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

Submitted July 29, 2009**

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

Maria De La Luz Sanchez Martinez, a native and citizen of Mexico,
petitions for review of the Board of Immigration Appeals' ("BIA") order denying
her motion to reopen based on ineffective assistance of counsel. Our jurisdiction is

* 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).

governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and review de novo ineffective assistance of counsel claims. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

We agree with the BIA that Sanchez Martinez failed to establish prejudice from her former counsel's performance. *See Iturribarria*, 321 F.3d at 899-903 (showing of prejudice required to prevail on ineffective assistance of counsel claim).

This court lacks jurisdiction to review the BIA's discretionary determination that the evidence was insufficient to establish a prima facie case of hardship. *See Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir. 2006).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.