NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

MARIA SOCORRO AGASINO, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 05-71468 Agency No. A092-177-125 MEMORANDUM[*]

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

Submitted December 8, 2009[**]
San Francisco, California

Before: O'SCANNLAIN, RAWLINSON and BEA, Circuit Judges.

Maria Socorro Agasino (Agasino) petitions for review of a Board of Immigration Appeals' (BIA) decision denying her petition to reopen her case to seek relief pursuant to 8 U.S.C. § 1182(c).

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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).

Agasino raised the argument that retroactive application of the expanded "aggravated felony" definition violates due process in her prior petition, so it is now barred by the doctrine of issue preclusion. *See In re Reynoso*, 477 F.3d 1117, 1122 (9th Cir. 2007). Likewise, Agasino could have raised her claim that application of the expanded definition violates her right to equal protection, so that claim is barried by the doctrine of claim preclusion. *See United States v. Bhatia*, 545 F.3d 757, 759 (9th Cir. 2008). Because Agasino is not entitled to relief, the BIA acted within its discretion when it denied Agasino's motion to reopen proceedings. *See Bunty Ngaeth v. Mukasey*, 545 F.3d 796, 799-800 (9th Cir. 2008).

PETITION FOR REVIEW DENIED.