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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAURA GUZMAN-PIMENTEL,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-72939

Agency No. A095-443-692

MEMORANDUM*

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

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Mura Guzman-Pimental, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' denial of her motion to reopen the

* 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).

underlying denial of her application for cancellation of removal, which was based on petitioner's failure to establish the requisite hardship to her qualifying relatives.

Petitioner introduced new evidence of hardship by submitting evidence that her United States citizen daughter Stephanie was recently diagnosed with asthma, and evidence that Stephanie's condition would be exacerbated if petitioner were removed to Mexico. Petitioner contends that the BIA erred in denying the motion to reopen when it concluded that Stephanie's asthma did not constitute a "very serious health issue," and erred by not considering all of the new evidence.

We conclude that the BIA properly considered the new evidence offered by petitioner, and acted within its broad discretion in determining that the evidence was insufficient to warrant reopening. *See Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2000) (the BIA's denial of a motion to reopen shall be reversed only if it is "arbitrary, irrational, or contrary to law"). We also conclude that petitioner has not overcome the presumption that the BIA reviewed all of the new evidence submitted with the motion to reopen. *See Larita-Martinez v. INS*, 220 F.3d 1092, 1095 (9th Cir. 2000).

PETITION FOR REVIEW DENIED.