

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 22 2008

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

MARIA DEL CARMEN GOMEZ  
AGUILAR,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-72881

Agency No. A95-443-635

MEMORANDUM\*

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

Submitted April 15, 2008\*\*

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioner Maria del Carmen Gomez Aguilar's second motion to  
reopen.

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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).

The BIA's denial of a motion to reopen is reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The regulations state that a petitioner may file only one motion to reopen removal proceedings. *See* 8 C.F.R. § 1003.2(c). The motion must also demonstrate prima facie eligibility for the relief sought. *See Mendez-Gutierrez v. Ashcroft*, 340 F.3d 865, 869-70 (9th Cir. 2003).

There is substantial evidence to support the BIA's decision denying petitioner's motion to reopen. A review of the administrative record demonstrates that this is petitioner's second motion to reopen. In addition, because petitioner's application for cancellation of removal was denied on physical presence grounds, not because of a lack of hardship to her qualifying relatives, the motion did not demonstrate prima facie eligibility for relief. Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**