

FEB 15 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JULIAN VALENCIA-ARROYO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY Attorney
General,

Respondent.

No. 07-71249

Agency Nos. A73-941-924
A73-942-869
A76-369-252
A76-369-253

MEMORANDUM *

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

Submitted February 11, 2008 **

Before: WALLACE, LEAVY and RYMER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying petitioners' motion to reopen proceedings.

* 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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We have reviewed the record, respondent's motion for summary disposition, in part, and for dismissal for lack of jurisdiction, in part, and the opposition thereto. The regulations provide that a motion to reopen "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioners' motion, filed more than two years after the BIA's decision affirming the denial of petitioners' applications for cancellation of removal. *See Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004) (BIA's denial of a motion to reconsider is reviewed for abuse of discretion); *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We conclude that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

In addition, this court lacks jurisdiction to review the BIA's discretionary decision to decline to exercise its *sua sponte* power to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). Petitioners have failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

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Accordingly, respondent's motion for summary affirmance, in part, and for dismissal, in part is granted.

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 in part; DISMISSED in part.