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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SERGIO ARMANDO FLORES-PINEDA;
et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73617

Agency Nos. A79-518-980
A79-518-981

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.

Petitioners seek review of a Board of Immigration Appeals' ("BIA") order treating a motion to reopen as a motion for reconsideration and denying the motion as untimely.

* 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).

07-73617

We review the BIA's denial of motions to reopen or to reconsider for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The BIA did not abuse its discretion in treating petitioners' motion to reopen as a motion for reconsideration because the motion did not seek to present material, previously unavailable evidence. *See* 8 C.F.R. § 1003.2(c). In addition, the BIA did not abuse its discretion in denying the motion for reconsideration as untimely. The motion was filed on March 15, 2007, over thirty days after the BIA's final administrative order of removal issued on February 9, 2007. *See* 8 C.F.R. § 1003.2(b)(2).

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) (stating standard). Accordingly, this petition for review is denied.

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.