

JUL 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EGMA MOSES KANHUKAMWE,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-70561

Agency No. A79-807-392

MEMORANDUM*

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

Submitted July 14, 2008**

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
denial of petitioner's motion to reopen immigration 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).

The BIA did not abuse its discretion in denying petitioner's motion to reopen because the motion to reopen was untimely, and petitioner did not allege that her motion met any of the regulatory exceptions. *See* 8 C.F.R. § 1003.2(c)(2), (3); *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002).

Moreover, this court lacks jurisdiction to review the BIA's discretionary decision to decline to exercise its sua sponte authority to reopen petitioner's case. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

Accordingly, respondent's motion for dismissal in part and summary disposition in part 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. We note the stay of removal in petition no. 05-72970 continues until further order of the court.

PETITION FOR REVIEW DENIED, in part; DISMISSED, in part.