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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAFAEL GARNICA MARTINEZ; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 07-74052

Agency Nos. A95-449-315  
A95-449-316  
A95-449-317

MEMORANDUM \*

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

Submitted May 12, 2008 \*\*

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals’ (“BIA”) order dismissing petitioners’ appeal of an Immigration Judge’s order denying petitioners’ applications for cancellation of removal.

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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).

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As to lead petitioners (Garnica-Martinez, A95-449-315 and Mendez-Antonio, A95-449-316), a review of the administrative record and the response to the October 31, 2007 order to show cause demonstrates that this court lacks jurisdiction to review the BIA's discretionary decision on hardship with respect to their cancellation of removal applications. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002); *Torres-Aguilar v. INS*, 246 F.3d 1267 (9th Cir. 2001); *Mamane v. INS*, 566 F.2d 1103 (9th Cir. 1997).

Accordingly, the court dismisses this petition for review for lack of jurisdiction as to the two lead petitioners.

As to the lead petitioners' son (A95-449-317), a review of the administrative record and the response to the order to show cause demonstrates that there is substantial evidence to support the BIA's decision that petitioner failed to establish that he has a qualifying relative for purposes of cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1)(D); *Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). Accordingly, his petition for review is summarily denied because the questions raised by the petition are so insubstantial as not to require further

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argument. *See United States v. Hooten*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

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 DISMISSED in part; DENIED in part.**