

JUL 24 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

SALVADOR ESPINDOLA RUIZ and
MARIA MENDOZA MARTINEZ,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-70458

Agency Nos. A97-351-316
A95-351-317

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 a motion to reopen immigration proceedings.

We review the BIA's denial of a motion to reopen for abuse of discretion.

See Cano-Merida v. INS, 311 F.3d 960, 964 (9th Cir. 2002). The record shows that

* 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 petitioners' motion to reopen as untimely, because the motion was filed on October 18, 2007, more than ninety days after January 30, 2007, the date on which the final order of removal was entered. *See* 8 U.S.C. § 1252(b)(1).

The BIA also did not abuse its discretion by denying the motion to reopen for protection under the Convention Against Torture, because the motion does not provide evidence of any changes that have occurred in Mexico that are material to petitioners or their circumstances. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Kamalthas v. INS*, 251 F.3d 1279 (9th Cir. 2001).

Accordingly, respondent's unopposed 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).

The motion for reinstatement of voluntary departure, filed after the departure period had expired, is denied. *See Garcia v. Ashcroft*, 368 F.3d 1157 (9th Cir. 2004).

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.