

FILED

OCT 2 2007

NOT FOR PUBLICATION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

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

FRANCISCO JAVIER GUTIERREZ-
CRUZ; BLANCA ALVIZO-AGUIRRE,

Petitioners,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 05-74739

Agency Nos. A95-175-898
A97-381-600

MEMORANDUM*

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

Submitted September 24, 2007***

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Francisco Javier Gutierrez-Cruz and his wife Blanca Alvizo-Aguirre, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's ("IJ") decision denying their applications for cancellation of removal. We dismiss the petition for review.

We lack jurisdiction to review the IJ's discretionary determination that Petitioners failed to show exceptional and extremely unusual hardship to a qualifying relative. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003).

Petitioners' contention that the BIA deprived them of due process by streamlining their appeal is not colorable. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) ("Although we retain jurisdiction to review due process challenges, a petitioner must allege at least a colorable constitutional violation."); *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 848-49 (9th Cir. 2003).

We do not consider Petitioners' contention regarding physical presence because Petitioners' failure to establish hardship is dispositive.

PETITION FOR REVIEW DISMISSED.