

DEC 28 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VALENTIN VENANCIO MARTINEZ; INES ARANGO IGNACIO,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 06-71532

Agency Nos. A95-413-882
A95-565-668

MEMORANDUM*

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

Submitted December 20, 2007**

Before: GOODWIN, WALLACE, and HAWKINS, Circuit Judges.

Valentin Venancio Martinez and Ines Arango Ignacio petition for review of an order of the Board of Immigration Appeals (“BIA”) denying their motion to reopen removal proceedings. We dismiss the petition for review.

* 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 evidence petitioners presented with their motion to reopen concerned the same basic hardship grounds as their application for cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore lack jurisdiction to review the BIA’s discretionary determination that the evidence would not alter its prior discretionary determination that they failed to establish the requisite hardship. *See id.* at 600 (holding that 8 U.S.C. § 1252(a)(2)(B)(i) bars this court from reviewing the denial of a motion to reopen “where the question presented is essentially the same discretionary [hardship] issue originally decided.”).

Our conclusion that we lack jurisdiction to review the BIA’s determination that petitioners did not make out a prima facie case of hardship forecloses their argument that the BIA denied them due process by failing to address the entirety of the evidence submitted with the motion to reopen. *See Fernandez*, 439 F.3d at 603-04.

PETITION FOR REVIEW DISMISSED.