

DEC 28 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PEDRO LEON DIAZ; MARISELA  
CORONA RIVERA,

Petitioners,

v.

MICHAEL B. MUKASEY,\*\* Attorney  
General,

Respondent.

No. 06-73413

Agency Nos. A79-561-102  
A79-561-103

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.

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

\*\* Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as 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).

Pedro Leon Diaz and his wife Marisela Corona Rivera seek review of an order of the Board of Immigration Appeals (“BIA”) affirming an immigration judge’s (“IJ”) order denying their applications for cancellation of removal. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings, *see Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001), and we dismiss in part and deny in part 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 IJ violated their due process rights by disregarding their evidence of hardship is not supported by the record and does not amount to a colorable constitutional claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) (“[T]raditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”).

We lack jurisdiction to review petitioners’ contention that the IJ violated due process by exhibiting bias because petitioners failed to raise this claim before the

BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (noting that due process challenges that are “procedural in nature” must be exhausted).

We are not persuaded that petitioners’ removal results in the deprivation of their child’s rights. *See Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1012-13 (9th Cir. 2005).

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