

SEP 15 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HILDA MARGARITA DEL CID DE
NAVARRO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73787

Agency No. A36-560-754

MEMORANDUM *

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

Submitted September 8, 2008**

Before: PREGERSON, McKEOWN and N.R. SMITH, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) order dismissing the appeal from the Immigration Judge’s (“IJ”) denial of

* 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).

petitioner's application for deferral of removal pursuant to the Convention Against Torture ("CAT"). *See* 8 C.F.R. § 1208.17.

We have jurisdiction to consider the denial of CAT relief. *See Lemus-Galvan v. Mukasey*, 518 F.3d 1081, 1084 (9th Cir. 2008). We review the BIA's factual findings to see if substantial evidence supports those findings. *See Zheng v. Ashcroft*, 332 F.3d 1186, 1193-94 (9th Cir. 2003).

Petitioner challenges the BIA's decision to the extent the BIA affirmed the IJ's determination that she had not presented credible testimony to support her application for relief. Petitioner fails, however, to challenge the BIA's finding that, even assuming her testimony was credible, she failed to satisfy her burden of establishing that she will be likely tortured if she returns to Guatemala. Because petitioner does not challenge this finding in her opening brief, she waives this issue. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (holding that issues not specifically raised and argued in a party's opening brief are waived).

Moreover, substantial evidence supports the BIA's finding that petitioner will not be tortured in Guatemala. Petitioner admitted that she was never harmed in Guatemala when she lived there prior to 1975, and that she was not harmed on any of her subsequent trips back to that country. The IJ appropriately concluded

that the evidence presented did not support a finding that the government of Guatemala is currently engaged in widespread torture of former guerillas or those who assisted them.

Accordingly, respondent's unopposed motion for summary denial of the petition for review is granted because the questions raised by this petition are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

PETITION FOR REVIEW DENIED.